TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1889.

No. 338. 48

THE UNITED STATES, APPELLANT,

vs.

THE CENTRAL PACIFIC RAILROAD COMPANY.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF CALIFORNIA.

FILED JUNE 16, 1887.

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1 In the circuit court of the ninth circuit of the United States for the district of California.

UNITED STATES OF AMERICA,
vs.
THE CENTRAL PACIFIC RAILROAD COMPANY. } In equity.

Bill of complaint.

To the judges of the ninth judicial circuit of the United States of America, in chancery, sitting in and for the district of California.

Philip Teare, United States attorney in and for the district of California, on behalf of the United States of America, brings this his bill in equity against the Central Pacific Railroad Company, and thereupon complains and says:

That the said Central Pacific Railroad Company, the defendant
2 herein, is and was at the times hereinafter mentioned a corporation duly organized under and by virtue of the laws of California, and that its principal place of business is in the State and district of California.

That on or about the thirty-first day of August, A. D. 1852, one Manuel Diaz, since deceased, presented to the Board of Land Commissioners for ascertaining and settling private land claims in the State of California a petition in which he claimed in fee a certain tract of land situated in the Sacramento Valley, in the county of Colusa, in said State and district of California, for eleven square leagues of land, which as alleged in his said petition to have been granted to him with the boundaries described in the grant on the 18th day of May, A. D. 1846, by Pio Pico Pico, the then Mexican governor of California, by virtue of the authority in him vested.

Said Diaz further represented in his said petition that he was
3 then in the quiet and undisputed possession of the said tract of land; that he knew of no conflicting claim; that said land had not been surveyed by the surveyor-general of the United States, but that said land was definite in quantity and its boundaries sufficiently described in the grant itself; that he, the said Diaz, relied for confirmation of his title upon the original grant presented with his said petition and the records and minutes relating thereto in the office of the then surveyor-general of the United States, and upon such other and further proofs as he might be advised were necessary; that said petition closed with a prayer to confirm him the said tract of land; that said Board of Land Commissioners proceeded to consider said claims, and on the 31st day of October, A. D. 1854, rendered a decree denying the application of said Diaz for a confirmation of his said grant of land and rejecting the claim.

4 That afterwards, to wit, on the 30th day of April, 1855, the said claimant, Manuel Diaz, by his attorneys, petitioned the United States district court for the northern district of California for a review of the proceedings and decision of the said land commissioners, and to confirm his said claim for eleven leagues of land and to declare the same to be valid.

That on the 20th day of June, A. D. 1855, a transcript of all the pro-

ceedings, with the evidence and decision of said commissioners in said cause, was duly filed in the office of the clerk of said United States district court for the northern district of California. That on the 10th day of November, A. D. 1855, the said Manuel Diaz, by his attorneys, filed with the clerk of said United States court for the northern district of California a notice of his intention to prosecute the appeal in said cause.

That on the same day, to wit, the 10th day of November, A. D.
5 1855, the said claimant, by his attorneys, filed with the clerk of said United States court for the northern district of California a second petition, praying the court to review the decision of said board of commissioners, and, on the hearing of the cause, to reverse said decision, and to confirm his title to the aforesaid land with costs and general relief. That the said United States district court for the northern district of California considered, heard, and reviewed the said decision and decree of said Board of United States Land Commissioners, and that at a stated term of said court held on the 15th day of March, A. D. 1858, the said court entered a decree ordering, adjudging, and decreeing that the claim of said Diaz, the appellant, was invalid and that the claim be thereby rejected.

That on the 22d day of March, A. D. 1858, the said claimant filed his motion in the United States district court for the northern district
6 of California, supported by his affidavit, asking that a new trial be had in said cause, and on the 5th day of April, A. D. 1858, it was ordered by the judge of said court that the cause be restored to the trial docket of said court. That subsequently said cause was transferred from the United States district court for the northern district of California to the United States circuit court, ninth circuit, district of California. And, on the first day of July, A. D. 1867, a decree was rendered by the last-named court rejecting the claim of said Manuel Diaz to said lands and affirming the decision of the board of United States land commissioners.

That on the 28th day of January, A. D. 1871, on application of the attorneys of Manuel Diaz, an appeal from the decree of the United States circuit court as aforesaid was allowed to the Supreme Court of the United States.

That the Supreme Court of the United States proceeded to hear
7 and determine said appeal, and on the 3d day of March, 1873, at the December term of said court, rendered a decree affirming the decree of the United States circuit court of the 9th circuit, district of California, as rendered on the first day of July, A. D. 1867.

Your orator further shows that all of the lands included within the limits of the exterior boundaries of the aforesaid Manuel Diaz grant claim (from the 31st day of August, A. D. 1852, and up to the time of the rejection of said grant by the Supreme Court of the United States on the 3d day of March, A. D. 1873) were not public lands subject to entry and withdrawal, but were lands embraced within the limits of reservation for adjustment of the Diaz grant claim.

Your orator further shows, that the defendant herein, the Central Pacific Railroad Company, is the successor in interest by amalgamation and
8 consolida to the California and Oregon Railroad Company, a corporation organized under and by virtue of the laws of California, whose principal place of business was heretofore in the State and district of California.

That said California and Oregon Railroad Company, by virtue of an act of Congress passed July , 1866, was thereby granted, for the purpose of aiding in the construction of its road, certain sections of the public lands of the United States in place, and also certain other sections of the public lands of the United States in indemnity, along the line of said road and within the limits of the indemnity grant of said acts. That thereafter the defendant, the Central Pacific Railroad Company, as successors in interest of the California and Oregon Railroad Company, under and by virtue of the said act of Congress, selected as lien land certain sections and parts of
9 sections of the public lands of the United States within the indemnity grant of said act of Congress. That on the 5th day of March, A. D. 1872, a patent was issued by the Land Department of the United States for the lands next hereinafter described to the defendant, the Central Pacific Railroad Company, as the successors in interest of the California and Oregon Railroad Company, which said lands so described in said patent are a portion of the lands within the limits of the exterior boundaries of the aforesaid Manuel Diaz grant claim and are described as follows, to wit: North of base line and west of Mt. Diablo meridian, township seventeen, range two, lots numbered three and four of northeast quarter and southeast quarter of section fifteen, containing two hundred and sixty-nine acres and thirty-two hundredths of an acre; east half of northeast quarter and lots numbered two and three of section thirty-five, con-
10 taining one hundred and eighty-four acres and fifty-six hundredths of an acre; north of base line and west of Mt. Diablo meridian, within the indemnity limits, township seventeen, range two; all of section seven, containing six hundred and fifty-two acres and forty hundredths of an acre.

Lots numbered one and two of the northwest quarter and southwest quarter of section fifteen, containing two hundred and sixty-eight acres and forty-two hundredths of an acre; lots numbered one, two, three, and four and south half of section seventeen, containing five hundred and thirty-three acres and twenty-four hundredths of an acre; all of section nineteen, containing six hundred and forty-five acres and ninety-eight hundredths of an acre.

Southeast quarter of northwest quarter, east half and southwest quarter of section twenty-seven, containing five hundred and twenty acres.
11 All of section twenty-nine, containing six hundred and forty acres. All of section thirty-one, containing six hundred and forty-one acres and sixty hundredths of an acre. North half of northwest quarter, southwest quarter of northwest quarter, northwest quarter of southwest quarter, south half of southwest quarter, and south half of southeast quarter of section thirty-three, containing three hundred and twenty acres. Northwest quarter of northwest and lot numbered one of southwest quarter of section thirty-five, containing ninety-two acres and twenty-eight hundredths of an acre. Township seventeen, range three. All of section one, containing six hundred and forty acres. All of section three, containing six hundred and thirty-nine acres and seventy-eight hundredths of an acre. South half of section five, containing three hundred and twenty acres. All of section seven, containing six hundred
12 and thirty-six acres and fifty-eight hundredths of an acre. North half of northeast quarter. South half of southeast quarter and

west half of section nine, containing four hundred and eighty acres. All of section eleven, containing six hundred and forty acres. All of section thirteen, containing six hundred and forty acres. All of section fifteen, containing six hundred and forty acres. All of section seventeen, containing six hundred and forty acres.

That on the 17th day of March, A. D. 1875, a patent was issued by the Land Department of the United States for the lands next hereinafter described to defendant, The Central Pacific Railroad Company, as the successor in interest of the California and Oregon Railroad Company, which said lands so described in said patent are a portion of the lands within the limits of the exterior boundaries of the aforesaid Manuel Diaz
13 grant claim, and are described as follows, to wit: North of base line and west of Mt. Diablo meridian, township sixteen, range two, lots numbered four of northwest quarter and east half of section three, containing three hundred and fifty-eight acres and ninety-four hundredths of an acre. Southwest quarter of northwest quarter and northwest quarter of southwest quarter of section five, containing eighty acres. Northwest quarter northwest quarter of northeast quarter, northeast quarter of southwest quarter, and lots numbered three and four of southwest quarter of section seven, containing three hundred and eighty acres and six hundredths of an acre. East half of section nine, containing three hundred and twenty acres. All of section fifteen, containing six hundred and forty acres. All of section nineteen, containing six hundred and twenty-
14 eight acres and fourteen hundredths of an acre. East half of northeast quarter of section twenty-one, containing eighty acres. Northwest quarter of section twenty-three, containing one hundred and sixty acres. Southwest quarter of northeast quarter northwest quarter and south half of section twenty-nine, containing five hundred and twenty acres. All of section thirty-one, containing six hundred and twenty-eight acres and six hundredths of an acre. Northeast quarter of southwest quarter of section thirty-five, containing forty acres. Township sixteen, range three. All of section one, containing six hundred and forty acres. All of section three, containing six hundred and thirty-eight acres and forty hundredths of an acre. All of section eleven, containing six hundred and forty acres. Northwest quarter of southeast quarter, east half of southeast quarter, southwest quarter and north half of section thirteen, con-
15 taining six hundred acres. All of section fifteen, containing six hundred and forty acres. Northeast quarter of southwest quarter, west half of southwest quarter, southeast quarter and north half of section twenty-three, containing six hundred acres. All of section twenty-five, containing six hundred and forty acres. All of section twenty-seven, containing six hundred and forty acres. All of section thirty-five, containing six hundred and forty acres. Township seventeen, range three. Northwest quarter of section twenty-three, containing one hundred and sixty acres. All of section twenty-five, containing six hundred and forty acres. Southwest quarter of section twenty-seven, containing one hundred and sixty acres. West half of section thirty-five, containing three hundred and twenty acres.

That on the 20th day of December, A. D. 1875, a patent was
16 issued by the Land Department of the United States for the lands next hereinafter described to the defendants, The Central Pacific

Railroad Company, as the successor in interest of the California and Oregon Railroad Company, which said lands so described in said patent are a portion of the lands within the limits of the exterior boundaries of the aforesaid Manuel Diaz grant claim, and are described as follows, to wit: North of base line and west of Mount Diablo meridian, township seventeen, range two, northeast quarter of northwest quarter of section thirty-five, containing forty acres.

That all of said lands herein above set forth and described are also comprised and defined in the body of said patents, and contain in the aggregate twenty thousand eight hundred and five and $\frac{78}{100}$ acres of land,
the whole of which said lands lie, and are within the limits of the
17 exterior boundaries of the Manuel Diaz grant claim.

Your orator further shows that the officers of the Land Department of the United States were mistaken in the law and misconstrued the law, whereby and thereby they issued the patents aforesaid for said lands to the defendants herein, and said patents were issued without authority of law; and that all of said lands so patented were within the limits of the exterior boundaries of the said Manuel Diaz grant claim, and were not subject to entry and withdrawal and selection and patent as public lands of the United States, but had been reserved for the adjustment of the Manuel Diaz grant claim.

Your orator further represents that on the 24th day of May, A. D. 1877, the Commissioner of the General Land Office, acting under instructions from the Secretary of the Interior, made a demand in
18 writing upon The Central Pacific Railroad Company, the defendant herein, for a relinquishment to the United States by it of its claim to all of the lands herein set forth as erroneously patented to it as the successor by consolidation of the California and Oregon Railroad Company.

That the defendant herein, The Central Pacific Railroad Company, have refused and neglected to so relinquish its claim to the said lands so erroneously patented to it, and said defendant does now refuse and neglect to comply with the demand to relinquish to the United States its claim to the said lands.

In support of the matters hereinbefore alleged, your orator begs leave to refer to all of the proceedings had before the Board of Land Commissioners in the matter of the Manuel Diaz grant claim, to all of the pro-
19 ceedings had before the United States district court for the northern district of California in the Manuel Diaz grant claim, and all the proceedings in the Supreme Court of the United States in the cause entitled "The United States vs. Manuel Diaz."

Also to all the records and documents or to certified copies thereof of the Land Department of the United States, so far as the same relate to the proceedings and correspondence wherein the California and Oregon Railroad Company and the Central Pacific Railroad Company, the defendants herein, were concerned in the withdrawal and selection and the patents issued for the lands hereinbefore described and alleged to be erroneously issued.

Wherefore your orators pray relief and the decree of this court that all of said patents be recalled and cancelled, and that defendant be for-
20 ever estopped from asserting any title to said lands under said pat-

ents, and that the same are public lands of the United States; and that the United States may have such other and further relief in the premises as may seem to the court to accord with the principles of equity.

May it please the court to grant to the United States the writ of subpœna issuing out of and under the seal of this honorable court, directed to said defendant, commanding it on a day certain to be named therein to be and appear in this honorable court to answer all and singular the premises and to stand to and abide by and perform such other orders, directions, and decrees as may be made herein.

PHILIP TEARE,
United States Attorney, District of California.

(Endorsed:) Filed October 15th, 1878. L. S. B. Sawyer, clerk, by J. F. O'Beirne, dep'y cl'k.

21 UNITED STATES OF AMERICA:

Circuit court of the United States, ninth circuit, district of California. In equity.

Subpœna.

The President of the United States of America, greeting:

To the Central Pacific Railroad Company:

You are hereby commanded that you be and appear in said circuit court of the United States aforesaid, at the court-room in San Francisco, on the first Monday of December, A. D. 1878, to answer a bill of complaint against you in said court by the United States of America, and to do and receive what the said court shall have considered in that behalf. And this you are not to omit under the penalty of five thousand dollars.

Witness, the honorable Morrison R. Waite, Chief-Justice of the
22 Supreme Court of the United States, this 6th day of November, in the year of our Lord one thousand eight hundred and seventy-eight, and of our Independence the 103d.

[SEAL.]

L. S. B. SAWYER,
Clerk,
By J. F. O'BEIRNE,
Dep'y C'lk.

Memorandum pursuant to Rule 12, *Supreme Court U. S.*

You are hereby required to enter your appearance in the above suit on or before the first Monday of December next, at the clerk's office of said court, pursuant to said bill; otherwise the said bill will be taken pro confesso.

L. S. B. SAWYER,
Clerk,
By J. F. O'BEIRNE,
Dep'y C'lk.

(Endorsed :)

U. S. MARSHAL'S OFFICE,
District of California:

I hereby certify that I received the within subpœna on the 6th
23 day of November, A. D. 1878, and personally served the same on the 12th day of November, 1878, by delivering to and leaving with Leland Standford, president of the Central Pacific Railroad Company, at the city and county of San Francisco, in said district, a certified copy thereof.

A. W. POOLE,
U. S. Marshal,
By D. W. C. STORY,
Deputy.

Filed November 12th, 1878. L. S. B. Sawyer, clerk, by J. F. O'Beirne, dep'y cl'k.

24 In the circuit court of the United States, ninth circuit, district of California.

PHILIP TEARE, ON BEHALF OF THE United States,
vs.
THE CENTRAL PACIFIC RAILROAD Company.

Demurrer.

The demurrer of the Central Pacific Railroad Company to the bill of complaint of Philip Teare, United States attorney in and for the district of California, on behalf of the United States of America, against this defendant.

This defendant by protestation, not confessing nor acknowledging all nor any of the matters and things in the said bill of complaint contained to be true in the manner and form as the same are therein set forth, doth demur thereto, and for cause of demurrer show:

25 That said complainant hath not in and by his said bill stated such a case as doth or ought to entitle him to any such discovery or relief as is thereby sought and prayed for, from or against this defendant.

Wherefore, and for divers other errors and imperfections, this defendant demands the judgment of this court whether it shall be compelled to make any further or other answer to the said bill, or any of the matters and things therein contained, and prays to be hence dismissed with its reasonable costs in this behalf sustained.

HOSMER MCKORN,
Solicitor for Defendant.

I hereby certify that the foregoing demurrer is, in my opinion, well founded in point of law.

DELOS LAKE,
of Counsel.

26 (Endorsed:) Service of a copy of the within admitted this 31st day of December, 1878. Philip Teare, U. S. att'y. Filed December 31st, 1878. L. S. B. Sawyer, clerk, by J. F. O'Beirne, dep'y cl'k.

27 *Order sustaining demurrer.*

At a stated term, to wit, the February term, A. D. 1879, of the circuit court of the United States of America of the ninth judicial circuit, in and for the district of California, held at the court-room in the city and county of San Francisco on Monday, the 3d day of February, in the year of our Lord one thousand eight hundred and seventy-nine.

Present: The honorable Lorenzo Sawyer, circuit judge.

THE UNITED STATES
vs.
THE CENTRAL PACIFIC RAILROAD COMPANY. } No. 1976.

This cause coming on to be heard this day upon the demurrer to the complaint herein, Philip Teare, esq., U. S. attorney, appearing on behalf of the demurrer herein, and Delos Lake, esq., in opposition
28 thereto, and in support of the complaint, was argued and submitted to the court for consideration and decision. And the same having been duly considered, it is ordered that said demurrer be, and the same is hereby, sustained. It is further ordered that the U. S. attorney have leave to file an amended complaint within twenty days.

I hereby certify that the foregoing is a full, true, and correct copy of an original order made and entered in the above entitled cause.

Attest my hand and the seal of said circuit court this 1st day of February, A. D. 1886.

L. S. B. SAWYER, *Clerk*,
By F. D. MONCTON,
Deputy Clerk.

29 In the circuit court of the ninth circuit of the United States for the district of California.

THE UNITED STATES OF AMERICA
vs.
THE CENTRAL PACIFIC RAILROAD COMPANY. } In equity.

Amended bill of complaint.

To the judges of the ninth judicial circuit of the United States of America in chancery sitting in and for the district of California:

The United States of America, the complainant above named, by Charles Devens, its Attorney-General, brings this its bill in equity against the Central Pacific Railroad Company, and thereupon complains and says:

That the said Central Pacific Railroad Company, the defendant
30 herein, is and was at the times hereinafter mentioned a corporation duly organized under and by virtue of the laws of California,

and that its principal place of business is in the State and district of California.

That on or about the 31st day of August, A. D. 1852, one Manuel Diaz, since deceased, presented to the Board of Land Commissioners for ascertaining and settling private land claims in the State of California a petition in which he claimed in fee a certain tract of land situated in the Sacramento Valley, in the county of Colusa, in said State and district of California, for eleven square leagues of land, which is alleged in his said petition to have been granted to him with the boundaries described in the grant on the 18th day of May, 1846, by Pio Pico, the then Mexican governor of California, by virtue of the authority in him vested.

31 Said Diaz further represented in his said petition that he was then in the quiet and undisputed possession of the said tract of land; that he knew of no conflicting claim; that said land had not been surveyed by the surveyor-general of the United States, but that said land was definite in quantity and its boundaries sufficiently described in the grant itself; that he, the said Diaz, relied for confirmation of his title upon the original grant presented with his said petition and the records and minutes relating thereto in the office of the then surveyor-general of the United States, and upon such other and further proofs as he might be advised were necessary.

That said petition closed with a prayer to confirm him the said tract of land.

That said Board of Land Commissioners proceeded to consider said claims, and on the 31st day of October, A. D. 1854, rendered a

32 decree denying the application of the said Diaz for a confirmation of his said grant of land and rejecting the claim.

That afterwards, to wit, on the 30th day of April, A. D. 1855, the said claimant, Manuel Diaz, by his attorneys, petitioned the United States district court for the northern district of California for a review of the proceedings and decision of the said land commissioners, and to confirm his said claim for eleven leagues of land, and to declare the same to be valid.

That on the 20th day of June, A. D. 1855, the transcript of all the proceedings, with the evidence and decision of the said commissioners in said case, was duly filed in the office of the clerk of said United States district court for the northern district of California; that on the 10th day of November, A. D. 1855, the said Manuel Diaz, by his attorneys, filed

33 with the clerk of said United States court for the northern district of California a notice of his intention to prosecute the appeal in said case.

That on the same day, to wit, the 10th day of November, A. D. 1855, the said claimant, by his attorneys, filed with the clerk of said United States court for the northern district of California a second petition praying the court to review the decision of said Board of Commissioners, and on the hearing of the cause to review said decision and to confirm his title to the aforesaid land, with costs and general relief.

That the said United States district court for the northern district of California considered, heard, and reviewed the said decision and decree of said Board of United States Land Commissioners, and at a stated term of said court held on the 15th day of March, A. D. 1858, the said

34 court entered a decree ordering, adjudging, and decreeing that the

claim of said Diaz, the appellant, was invalid, and that the claim be thereby rejected.

That on the 22d day of March, A. D. 1858, the said claimant filed his motion in the United States district court for the northern district of California, supported by his affidavit asking that a new trial be had in said cause, and on the 5th day of April, A. D. 1858, it was ordered by the judge of said court that the cause be restored to the trial docket of said court.

That subsequently said cause was transferred from the United States district court for the northern district of California to the United States circuit court, ninth district of California, and on the 1st day of July, A. D. 1867, a decree was rendered by the last-named court rejecting the claim of said Manuel Diaz to said lands and affirming the decision of the Board of United States Land Commissioners.

35 That on the 28th day of January, A. D. 1871, on application of the attorneys of Manuel Diaz, an appeal from the decree of the United States circuit court as aforesaid was allowed to the Supreme Court of the United States.

That the Supreme Court of the United States proceeded to hear and determine said appeal. And on the 3d day of March, A. D. 1873, at the December term of said court, rendered a decree affirming the decree of the United States circuit court of the 9th circuit district of California as rendered on the 1st day of July, A. D. 1867.

Your orator further shows that all of the lands included within the limits of the exterior boundaries of the aforesaid Manuel Diaz grant claim, from the 31st day of August, A. D. 1852, and up to the time of the rejection of said grant by the Supreme Court of the United States

36 on the 3d day of March, 1873, were not public lands, subject to entry and withdrawal, but were lands embraced within the limits of reservation for adjustment of the Diaz grant claim.

Your orator further shows that the defendant herein, the Central Pacific Railroad Company, is the successor in interest by amalgamation and consolidation to the California and Oregon Railroad Company, a corporation organized under and by virtue of the laws of California, whose principal place of business was heretofore in the State and district of California.

That said California and Oregon Railroad Company, by virtue of an act of Congress passed July, 1866, was thereby granted for the purpose of aiding in the construction of its road certain sections of the public lands of the United States in place and also certain other sections of the public lands of the United States in indemnity along the line of said road

37 and within the limits of the indemnity grant of said act.

That thereafter the defendant, the Central Pacific Railroad Company as successor in interest of the California and Oregon Railroad Company, under and by virtue of the said act of Congress, selected in place and as lieu lands certain sections and parts of sections of the public lands of the United States within the grant and indemnity grant of said act of Congress.

That on the 5th day of March, A. D. 1872, a patent was issued by the Land Department of the United States for the lands next hereinafter described to the defendant, the Central Pacific Railroad Company, as the successor in interest of the California and Oregon Railroad Company,

which said lands so described in said patent are a portion of the lands within the limits of the exterior boundaries of the aforesaid
38 Manuel Diaz grant claim, and are described as follows, to wit: North of base line and west of Mount Diablo meridian, township seventeen, range two, lots numbered three and four of the northeast quarter and southeast quarter of section fifteen, containing two hundred and sixty-nine acres and thirty-two hundredths of an acre. East half of northeast quarter and lots numbered two and three of section thirty-five, containing one hundred and eighty-four acres and fifty-six hundredths of an acre, north of base line and west of Mount Diablo meridian, within the indemnity limits; township seventeen, range two. All of section seven containing six hundred and fifty-two acres and forty-six hundredths of an acre. Lots numbered one and two of the northwest quarter and southwest quarter of section fifteen containing two hundred and sixty-eight
39 acres and forty-four hundredths of an acre. Lots numbered one, two, three, and four, and south half of section seventeen, containing five hundred and thirty-three acres and twenty-four hundredths of an acre. All of section nineteen, containing six hundred and forty-five acres and ninety-eight hundredths of an acre. Southeast quarter of northwest quarter, east half and southwest quarter of section twenty-seven, containing five hundred and twenty acres. All of section twenty-nine, containing six hundred and forty acres. All of section thirty-one, containing six hundred and forty-one acres and sixty hundredths of an acre. North half of northwest quarter, southwest quarter of northwest quarter, northwest quarter of southwest quarter, south half of southwest quarter, and south half of southeast quarter of section thirty-three, containing three hundred and twenty acres. Northwest quarter of north-
40 west and lot number one of southwest quarter of section thirty-five, containing ninety-two acres and twenty-eight hundredths of an acre. Township seventeen, range three: All of section one, containing six hundred and forty acres. All of section three, containing six hundred and thirty-nine acres and seventy-eight hundredths of an acre. South half of section five, containing three hundred and twenty acres. All of section seven, containing six hundred and thirty-six acres and fifty-eight hundredths of an acre. North half of northeast quarter, south half of southeast quarter, and west half of section nine, containing four hundred and eighty acres. All of section eleven, containing six hundred and forty acres. All of section thirteen, containing six hundred and forty acres. All of section fifteen, containing six hundred and forty acres. All of section seventeen, containing six hundred and forty acres.

41 That on the 17th day of March, A. D. 1875, a patent was issued by the Land Department of the United States for the lands next hereinafter described to the defendant, the Central Pacific Railroad Company, as the successor in interest of the California and Oregon Railroad Company, which said lands so described in said patent are a portion of the lands within the limits of the exterior boundaries of the aforesaid Manuel Diaz grant claim, and are described as follows, to wit: North of base line and west of Mount Diablo meridian, township sixteen, range two. Lot numbered four of northwest quarter and east half of section three, containing three hundred and fifty-eight acres and ninety-four hundredths of an acre. Southwest quarter of northwest quarter and north-

west quarter of southwest quarter of section five, containing eighty acres. Northwest quarter, northwest quarter of northeast quarter, northeast
42 quarter of southwest quarter, and lots numbered three and four of the southwest quarter of section seventeen, containing three hundred and eight acres and six hundredths of an acre. East half of section nine, containing three hundred and twenty acres. All of section fifteen, containing six hundred and forty acres. All of section nineteen, containing six hundred and twenty-eight acres and fourteen hundredths of an acre. East half of northeast quarter of section twenty-one, containing eighty acres. Northwest quarter of section twenty-three, containing one hundred and sixty acres. Southwest quarter of northeast quarter, northwest quarter and south half of section twenty-nine, containing five hundred and twenty acres. All of section thirty-one, containing six hundred and twenty-eight acres and six hundredths of an acre. Northeast quarter of northwest quarter of section thirty-five, containing forty acres.
43 Township sixteen, range three: All of section one, containing six hundred and forty acres. All of section three, containing six hundred and thirty-eight acres and forty hundredths of an acre. All of section eleven, containing six hundred and forty acres. Northwest quarter of southeast quarter, east half of southeast quarter, southwest quarter and north half of section thirteen, containing six hundred acres. All of section fifteen, containing six hundred and forty acres. Northeast quarter of southwest quarter, west half of southwest quarter, southeast quarter and north half of section twenty-three containing six hundred acres.

All of section twenty-five, containing six hundred and forty acres; all of section twenty-seven, containing six hundred and forty acres; all of section thirty-five, containing six hundred and forty acres; township seventeen, range three, northwest quarter of section twenty-three, con-
44 taining one hundred and sixty acres; all of section twenty-five, containing six hundred and forty acres; southwest quarter of section twenty-seven, containing one hundred and sixty acres; west half of section thirty-five, containing three hundred and twenty acres.

That on the 20th day of December, A. D. 1875, a patent was issued by the Land Department of the United States for the lands hereinafter described to the defendant, the Central Pacific Railroad Company, as the successor in interest of the California and Oregon Railroad Company, which said lands so described in said patent are a portion of the lands within the limits of the exterior boundaries of the aforesaid Manuel Diaz grant claim, and are described as follows, to wit: North of base line and west of Mount Diablo meridian, township seventeen, range two, northeast quarter of northwest quarter of section thirty-five, containing forty acres.

45 That all of said lands herein above set forth and described are also comprised and defined in the body of said patents, and contain in the aggregate twenty thousand eight hundred and five and seventy-eight hundredths acres of land, the whole of which said lands lie and are within the limits of the exterior boundaries of the Manuel Diaz grant claim.

Your orator further shows: That the officers of the Land Department of the United States were mistaken in the law and misconstrued the law, whereby and thereby they issued the patents aforesaid for said *land* lands to the defendant herein, and said patents were issued without the authority of law, and that all of said lands so patented were within the limits of the

exterior boundaries of the said Manuel Diaz grant claim, and were not subject to entry, withdrawal, and selection and patent as public
46 lands of the United States, but had been reserved for the adjustment of the Manuel Diaz grant claim.

Your orator further represents: That on the 24th day of May, A. D. 1877, the Commissioner of the General Land Office, acting under instructions from the Secretary of the Interior, made a demand in writing upon the Central Pacific Railroad Company, the defendant herein, for a relinquishment to the United States by it of its claim to all of the lands herein set forth as erroneously patented to it as the successor by consolidation of the California and Oregon Railroad Company.

That the defendant herein, the Central Pacific Railroad Company, has refused and neglected to so relinquish its claim to the said land so erroneously patented to it, and said defendant does now refuse and neglect to comply with the demand to relinquish to the United States its claim to the said lands.

47 In support of the matters hereinbefore alleged, your orator begs leave to refer to all of the proceedings had before the Board of Land Commissioners in the matter of the Manuel Diaz grant claim; to all of the proceedings had before the United States district court for the northern district of California in the Manuel Diaz grant claim; and, also, all the proceedings in the Supreme Court of the United States in the cause entitled The United States vs. Manuel Diaz; also to all the records and documents, or to certified copies thereof, of the Land Department of the United States so far as the same relate to the proceedings and correspondence wherein the California and Oregon Railroad Company and the Central Pacific Railroad Company, the defendant herein, were concerned in the withdrawal and selection, and the patents issued for the
48 lands hereinbefore described and alleged to be erroneously issued.

Wherefore your orator prays relief and the decree of this court that all of said patents be recalled and cancelled, and that the defendant be forever estopped from asserting any title to said lands under said patents, and that the same are public lands of the United States. And that the United States may have such other and further relief in the premises as may seem to the court to accord with the principle of equity.

May it please the court to grant to the United States the writ of subpœna issuing out of and under the seal of this honorable court, directed to said defendant, commanding it, on a day certain to be named therein, to be and appear in this honorable court to answer all and singular the premises, and to stand to and abide by and perform such other orders, directions, and decrees as may be made herein.

49 CHARLES DEVENS,
Attorney-General.
PHILIP TEARE,
United States Attorney.
COGHLAN & MCCLURE,
Of Counsel for Complainant.

(Endorsed:) San Francisco, February 17th, 1879. Service of a copy of the within amended bill of complaint acknowledged this 17th day of February, A. D. 1879. Lake & McKoon, solicitors for defendant. Filed 17th Feb'y, 1879. L. S. B. Sawyer, clerk, by J. F. O'Beirne, dep'y cl'k.

50 In the circuit court of the United States of the ninth circuit, in and for the district of California.

THE UNITED STATES OF AMERICA
against
THE CENTRAL PACIFIC RAILROAD COMPANY. } In equity.

Answer.

The answer of the Central Pacific Railroad Company to the bill of complaint of the United States of America, complainants.

This defendant, now and all times reserving to itself all manner of benefit and advantage of exception to the many errors and insufficiencies in the complainant's bill of complaint contained, for answer thereunto or unto so much and such parts thereof as this defendant is advised is material for it to make answer unto, doth answer and say:

51 This defendant admits that it, the Central Pacific Railroad Company, is, and was at the times mentioned in said bill of complaint, a corporation duly organized under and by virtue of the laws of California, and that its principal place of business is in the State and district of California.

Defendant admits that on or about the 31st day of August, A. D. 1852, one Manuel Diaz, since deceased, presented to the Board of Land Commissioners for ascertaining and settling private land claims in the State of California a petition in which he claimed in fee a certain tract of land situated in the Sacramento valley, in the county of Colusa, in said State and district of California, for eleven square leagues of land which is alleged in his said petition to have been granted to him with the boundaries described in the grant on the 18th day of May, A. D. 1846, by Pio

52 Pico, the then Mexican governor of California, by virtue of the authority in him vested.

That said Diaz further represented in his said petition that he was then in the quiet and undisputed possession of the said tract of land; that he knew of no conflicting claim; that said land had been surveyed by the surveyor-general of the United States, but that said land was definite in quantity and its boundaries sufficiently described in the grant itself; that he, the said Diaz, relied for confirmation of his title upon the original grant presented with his said petition, and the records and minutes relating thereto in the office of the then surveyor-general of the United States, and upon such other and further proofs as he might be advised were necessary; that said petition closed with a prayer to confirm him the said tract of land.

Defendant admits that said Board of Land Commissioners pro-

53 ceeded to consider said claims, and on the 31st day of October, A. D. 1854, rendered a decree denying the application of said Diaz for a confirmation of his said alleged grant of land and rejecting the claim. Defendant admits that afterwards, to wit, on the 30th day of April, A. D. 1855, the said claimant, Manuel Diaz, by his attorneys, petitioned the United States district court for the northern district of California for a review of the proceedings and decision of the said land commissioners and to confirm his said claim for eleven leagues of land and to declare the same to be valid.

Defendant admits that on the 20th day of June, A. D. 1855, a transcript of all the proceedings with the evidence and decision of the said commissioners in said case was duly filed in the office of the clerk of said United States district court for the northern district of California; that on the 10th day of November, A. D. 1855, the said Manuel Diaz
54 by his attorneys filed with the clerk of said United States court for the northern district of California a notice of his intention to prosecute the appeal in said case; that on the same day, to wit, the 10th day of November, A. D. 1855, the said claimant by his attorneys filed with the clerk of said United States court for the northern district of California a second petition praying the court to review the decision of said Board of Commissioners and on the hearing of the cause to reverse said decision and to confirm his alleged title to the aforesaid land with costs and general relief.

Defendant admits that the said United States district court for the northern district of California considered, heard, and reviewed the said decision and decree of said Board of United States Land Commissioners, and at a stated term of said court held on the 15th day of March,
55 A. D. 1858, the said court entered a decree ordering, adjudging, and decreeing that the claim of said Diaz was invalid, and that the said claim be and the same was thereby rejected.

Defendant admits that on the 22d day of March, A. D. 1858, the said claimant made his motion in the United States district court for the northern district of California, supported by his affidavit, asking that a new trial be had in said cause, and on the 5th day of April, A. D. 1858, it was ordered by the judge of said court that the cause be restored to the trial docket of said court.

Defendant admits that subsequently said cause was transferred from the United States district court for the northern district of California to the United States circuit court of the ninth circuit, district of California, and that on the 1st day of July, A. D. 1867, a decree was rendered by
56 the last-named court rejecting the claim of said Manuel Diaz to said lands, and affirming the decision of the Board of United States Land Commissioners.

Defendant admits that on the 28th day of January, A. D. 1871, on application of the attorneys of Manuel Diaz, an appeal from the decree of the United States circuit court, as aforesaid, was allowed to the Supreme Court of the United States.

Defendant admits that the Supreme Court of the United States proceeded to hear and determine said appeal, and on the 3d day of March, A. D. 1873, at the December term of said court, rendered a decree affirming the decree of the United States circuit court, of the ninth circuit, in and for the district of California, as rendered on the first day of July, A. D. 1867.

Defendant is informed and believes that it is not true, and, therefore, denies that all or any of the lands included within the limits
57 of the exterior boundaries of the aforesaid Manuel Diaz grant claim from the 31st day of August, A. D. 1852, and up to the time of the rejection of said alleged grant by the Supreme Court of the United States on the 3d day of March, 1873, or during any part of said time, except as hereinafter expressly stated, were not public lands subject to

entry and withdrawal, or were lands embraced within the limits of reservation for adjustment of the Diaz grant claim.

Defendant further states and avers, on its information and belief, that on or about the 22d day of January, 1873, the lands within the limits of the exterior boundaries of the Manuel Diaz claim were suspended and reserved and withdrawn from sale or entry, by order of the Commissioner of the General Land Office of the United States, for the adjustment
58 of the Diaz grant claim, and continued so reserved and withdrawn under said order until on or about the 18th day of August, 1873, when the same were released from suspension and withdrawal, and were restored to the public lands of the United States by order of said Commissioner directing such release and restoration thereof.

That said reservation and withdrawal of said lands from said 22d day of January, 1873, until the 18th day of August, 1873, was and is the first and only withdrawal, reservation, or suspension of said lands or any thereof for the adjustment of said Diaz grant claim, and the only reservation, suspension, or withdrawal of said lands, or any thereof, for any purpose or at all except the withdrawal and reservation of certain odd-numbered sections and parts of sections thereof, reserved and with-
59 drawn for and for the benefit of this defendant, under and in accordance with the provisions of that certain act of Congress approved July 25th, 1886, hereinafter more fully mentioned.

Defendant admits that it, The Central Pacific Railroad Company, is the successor in interest by amalgamation and consolidation of the California and Oregon Railroad Company, a corporation organized under and by virtue of the laws of California, whose principal place of business was heretofore in the State and district of California.

Defendant admits that said California and Oregon Railroad Company, by virtue of an act of Congress, approved July 25th, 1866, was thereby granted for the purpose of aiding in the construction of its road certain sections of the public lands of the United States in place, and also certain other sections of the public lands of the United States in indemnity
60 along the line of said road and within the limits of the indemnity grant of said act.

That thereafter this defendant, as successor in interest of the California and Oregon Railroad Company aforesaid, under and by virtue of the said act of Congress, selected in place and as indemnity lands certain sections and parts of sections of the public lands of the United States within the grant and indemnity grant of said act of Congress.

Defendant admits that on the 5th day of March, A. D. 1872, a patent was issued to this defendant, as the successor in interest of said California and Oregon Railroad Company, by the Government of the United States, under the hand of the President of the United States and countersigned by the recorder of the General Land Office, and not issued by the Land Department of the United States, as in said bill of complaint is
61 incorrectly stated, of and for the lands described as follows, to wit:

North of base line and west of Mount Diablo meridian, township seventeen, range two, lots numbered three and four of the northeast quarter and the southeast quarter of section fifteen, containing two hundred sixty-nine $\frac{32}{100}$ acres; east half of northeast quarter, and lots numbered two and three of section thirty-five, containing one hundred eighty-four $\frac{56}{100}$ acres;

north of base line and west of Mount Diablo meridian, within the indemnity limits of said act of Congress, township seventeen, range two, all of section seven, containing six hundred fifty-two $\frac{40}{100}$ acres; lots numbered one and two of the northwest quarter, and the northwest quarter of section fifteen, containing two hundred sixty-eight $\frac{44}{100}$ acres; lots numbered one, two, three, and four, and the south half of section seventeen, containing five hun-

62 dred thirty-three $\frac{24}{100}$ acres; all of section nineteen, containing six hundred forty-five $\frac{98}{100}$ acres; southeast quarter of northwest quarter and east half and southwest quarter of section twenty-seven, containing five hundred twenty acres; all of section twenty-nine, containing six hundred forty acres; all of section thirty-one, containing six hundred forty-one $\frac{60}{100}$ acres; north half of northwest quarter, and southwest quarter of northwest quarter, and northwest quarter of southwest quarter, and south half of southwest quarter, and south half of southeast quarter of section thirty-three, containing three hundred twenty acres; northwest quarter of northwest quarter and lot number one of southwest quarter of section thirty-five, containing ninety-two $\frac{28}{100}$ acres. In township seventeen, range three, section one, containing six hundred forty acres; section

63 three, containing six hundred thirty-nine $\frac{78}{100}$ acres; south half of section five, containing three hundred twenty acres; section seven, containing six hundred thirty-six $\frac{58}{100}$ acres; north half of northeast quarter and south half of southeast quarter, and west half of section nine, containing four hundred eighty acres; section eleven, containing six hundred forty acres; section thirteen, containing six hundred forty acres; section fifteen, containing six hundred forty acres; section seventeen, containing six hundred forty acres.

Defendant denies that the following pieces and parcels of the above-described lands, to wit: North of base line, west of Mount Diablo meridian, in township seventeen, range two, section seven, containing six hundred fifty-two $\frac{40}{100}$ acres; north of base line, west of Mount Diablo meridian, in township seventeen, range three, section one, containing six

64 hundred forty acres; section three, containing six hundred thirty-nine $\frac{78}{100}$ acres; south half of section five, containing three hundred twenty acres; section seven, containing six hundred thirty-six $\frac{58}{100}$ acres; north half of northeast quarter, and south half of southeast quarter, and northwest half of section nine, containing four hundred eighty acres; section eleven, containing six hundred forty acres; north half of northeast quarter and north half of northwest quarter of section fifteen, containing one hundred sixty acres, or any of them, are a portion of the lands within the limits of the exterior boundaries of the aforesaid Manuel Diaz grant claim, or that any of said last-mentioned lands are within the limits of the exterior boundaries of said claim; and defendant admits that the remaining and other lands hereinbefore described are within said limits.

65 Defendant admits that on the 17th day of March, A. D. 1875, a patent was issued to the defendant as the successor in interest of said California and Oregon Railroad Company by the Government of the United States, under the hand of the President of the United States, and countersigned by the recorder of the General Land Office, and not issued by the Land Department of the United States, as in said bill of complaint

is incorrectly stated, of and for the lands described as follows, to wit: North of base line and west of Mount Diablo meridian, in township sixteen, range two, lot number four, of northwest quarter and east half of section three, containing three hundred fifty-nine $\frac{33}{100}$ acres, and not three hundred fifty-eight $\frac{94}{100}$ acres, as in said bill of complaint incorrectly stated; southwest quarter of northwest quarter and northwest
66 quarter of southwest quarter of section five, containing eighty acres; northwest quarter and northwest quarter of northeast quarter and northeast quarter of southwest quarter, and lots numbered three and four of the southwest quarter of section seven, containing three hundred eight $\frac{6}{100}$ acres; east half of section nine, containing three hundred twenty acres; section fifteen, containing six hundred forty acres; section nineteen, containing six hundred twenty-eight $\frac{14}{100}$ acres; east half of northeast quarter of section twenty-one, containing eighty acres; northwest quarter of section twenty-three, containing one hundred sixty acres; southwest quarter of northeast quarter and northwest quarter and north half of section twenty-nine, containing five hundred twenty acres; section thirty-one, containing six hundred twenty-eight $\frac{6}{100}$ acres; northeast quarter of southwest quarter of section thirty-five, containing forty
67 acres; and in township sixteen, range three, section one, containing six hundred forty acres; section three, containing six hundred thirty-eight $\frac{40}{100}$ acres; section eleven, containing six hundred forty acres; northwest quarter of southeast quarter, and east half of southeast quarter, and southwest quarter, and north half of section thirteen, containing six hundred acres; section fifteen, containing six hundred forty acres; northeast quarter of southwest quarter, and west half of southwest quarter, and southeast quarter, and north half of section twenty-three, containing six hundred acres; section twenty-five, containing six hundred forty acres; section twenty-seven, containing six hundred forty acres; section thirty-five, containing six hundred forty acres; and in township seventeen, range three, northwest quarter of section twenty-three, containing one hundred sixty acres; section twenty-five, containing six hundred forty acres;
68 southwest quarter of section twenty-seven, containing one hundred sixty acres; west half of section thirty-five, containing three hundred wenty acres.

Defendant denies that the following pieces and parcels of the above described land, to wit: North of base line and west of Mount Diablo meredian, in township sixteen, range two, northeast quarter of southwest quarter, and lots numbered three and four of the southwest quarter of section seven, containing one hundred fourteen $\frac{1}{100}$ acres; southeast quarter of section nine, containing one hundred sixty acres; section fifteen, containing six hundred forty acres; section nineteen, containing six hundred twenty-eight $\frac{14}{100}$ acres; east half of northeast quarter of section twenty-one, containing eighty acres; northwest quarter of section twenty-three, containing one hundred sixty acres; southwest quarter of
69 northeast quarter, and northwest quarter, and south half of section twenty-nine, containing five hundred twenty acres; section thirty-one, containing six hundred twenty-eight $\frac{6}{100}$ acres; northeast quarter of southwest quarter of section thirty-five, containing forty acres; south half of section eleven, containing three hundred twenty acres; northwest quarter of southeast quarter, and east half of southeast quarter, and southwest quarter, and north half of section thirteen, containing six hundred acres;

section fifteen, containing six hundred forty acres; northeast quarter of southwest quarter and west half of southwest quarter and southeast quarter and *and* north half of section twenty-three, containing six hundred acres; section twenty-five, containing six hundred forty acres; section twenty-seven, containing six hundred forty acres; section
70 thirty-five, containing six hundred forty acres; or any of them, are a portion of the lands within the limits of the exterior boundaries of the aforesaid Manual Diaz grant claim, or that any of said last-mentioned lands are within the limits of the exterior boundaries of said claim; and defendant admits that the other lands hereinbefore described as contained in said patent of March 17th, 1875, are within said limits.

Defendant admits that on the 20th day of December, A. D. 1875, a patent was issued by the Government of the United States, under the hand of the President of the United States, and countersigned by the recorder of the General Land Office, and not issued by the Land Department of the United States, as in said bill of complaint is incorrectly stated, for the lands next hereinafter described, to this defendant as the successor in interest of said The California and Oregon Railroad
71 Company, which said lands so described in said patent are a portion of the lands within the limits of the exterior boundaries of the aforesaid Manual Diaz grant claim, and are described as follows, to wit: North of base line and west of Mount Diablo meredian, township seventeen, range two, northeast quarter of northwest quarter of section thirty-five, containing forty acres.

Defendant admits that all of said lands hereinabove and in said bill of complaint set forth and described are also comprised and defined in the body of said patents, and contain in the aggregate twenty thousand eight hundred six $\frac{17}{100}$ acres; and not twenty thousand eight hundred five $\frac{78}{100}$ acres, as in said bill of complaint incorrectly stated; and denies that the whole or any portion of said lands, except as hereinbefore ex-
72 pressly stated and admitted, lie or are within the limits of the exterior boundaries of the Manuel Diaz grant claim.

Defendant denies that the officers of the Land Department of the United States were mistaken in the law or misconstrued the law whereby or thereby they issued the patents or any of them for said lands or any of them to this defendant; and denies that said patents or any of them were issued without authority of law; and denies that all or any of said lands so patented, except as hereintofore expressly stated and admitted, were within the limits of the exterior boundaries of the said Manuel Diaz grant claim, and denies that said lands or any of them were not subject to entry, withdrawal, and patent as public lands of the United States for and in behalf of this defendant, and denies that said lands or any thereof had
73 been or were reserved for the adjustment of the said Manuel Diaz grant claim at any time or at all except during the period from the 22d day of January, 1873, to the 18th day of August, 1873.

Defendant admits that on the 24th day of May, A. D. 1877, the Commissioner of the General Land Office, acting under instructions from the Secretary of the Interior, made a demand in writing upon this defendant for a relinquishment to the United States by it of its claim to all of the lands in said bill of complaint and hereintofore set forth, patented to this defendant as the successor of the California and Oregon Railroad

Company, but defendant denies that said lands or any thereof have been, were, or are erroneously patented to this defendant.

Defendant admits that it has refused and does now refuse to so or at all relinquish said or any of said lands patented to it; and denies
74 that said or any of said lands have been, were, or are erroneously patented to the defendant.

Defendant further avers and alleges that in and by that certain act of Congress of the United States approved July 25th, 1866, entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific Railroad in California to Portland in Oregon," it was and is enacted that there be, and thereby there is, and was granted to said California and Oregon Railroad Company, its successors and assigns, every alternate section of public land, not mineral, designated by odd numbers, to the amount of twenty alternate sections per mile (ten on each side) of said railroad line; and that when any of said alternate sections or parts of sections should be found to have been granted, sold, re-
75 served, occupied by homestead settlers, pre-empted, or otherwise disposed of other lands designated as aforesaid should be selected by said companies in lieu thereof, under the direction of the Secretary of the Interior, in alternate sections designated by odd numbers as aforesaid nearest to and not more than ten miles beyond the limits of said first-named alternate sections; and that as soon as said company should file in the office of the Secretary of the Interior a map of the survey of said railroad or any portion thereof, not less than sixty continuous miles from either terminus, the Secretary of the Interior should withdraw from sale the public lands therein granted on each side of said railroad so far as located and within the limits before specified.

Defendant further alleges that said California and Oregon Rail-
76 road Company thereafter, and on or about the 29th day of October, 1867, in conformity to said act of Congress, duly filed in said office of the Secretary of the Interior a map of the survey of said railroad or some portion thereof more than sixty continuous miles from the southerly terminus thereof, and extending along, past, and beyond all the lands mentioned in said bill of complaint, which said lands were and are within the limits of the indemnity grant of said act of Congress along the line of said railroad as designated on and by said map. That thereafter, and on or about the 29th day of October, 1867, the said Secretary of the Interior withdrew and caused to be withdrawn from sale all the lands mentioned in the bill of complaint, and the public lands granted on each side of said railroad, according to and in compliance with said act of Congress, within the limits herein designated by order of the Commis-
77 sioner of the General Land Office of the United States, bearing date on or about said date, and filed in the district land office of the United States of the district in which said lands mentioned in said bill of complaint were and are situated, on or about the 25th day of November, A. D. 1867. That said reservation and withdrawal of said lands was made for the benefit of said California and Oregon Railroad Company and this defendant as its successor, and that said order and said withdrawal have never been vacated, set aside, nor countermanded, nor superseded by any other order, withdrawal, or reservation; but that said order and withdrawal are still in full force and effect, and that all of said lands mentioned in said bill of complaint are, and would be still, reserved and

withdrawn thereunder for the sole benefit of this defendant, if any and all of the said patents were or should be vacated, cancelled, or set
78 aside in whole or in part. That on and prior to said 29th day of October, 1867, all said lands were public lands of the United States subject to entry and sale and to be withrawn under said order and said act of Congress as aforesaid.

That said railroad has been, since the filing of said map and prior to the dates of the patents mentioned in said bill of complaint, duly constructed in conformity to said act of Congress along said line, along, past, and beyond all of the lands mentioned in said bill of complaint.

That this defendant, by succession and amalgamation, is and has been at all times since the 22d day of August, 1870, the successor and owner of and entitled to all the rights, privileges, grants, property, and franchises of said California and Oregon Railroad Company. That the lands within the granted limits of said act of Congress were found to be and were
79 insufficient to afford to this defendant, as successor of said California and Oregon Railroad Company, ten alternate sections per mile on each side of said railroad line designated by odd numbers, by reason of some of said alternate sections and parts of sections having been theretofore granted, sold, reserved, occupied by homestead settlers, pre-empted, or otherwise disposed of.

That thereupon and thereafter this defendant selected, under the direction of the Secretary of the Interior, other lands, among which are all of the lands mentioned in said bill of complaint, designated as aforesaid, in lieu of said lands thereby lost to this defendant, in alternate sections designated by odd numbers, as aforesaid, nearest to and not more than ten miles beyond the limits of said first-named alternate sections, and under
80 and in compliance with said act of Congress.

That all of the lands mentioned in said bill of complaint are indemnity lands, selected by and on behalf of this defendant, within the indemnity limits aforesaid, in lieu of and as indemnity for the lands within the granted limits of said act of Congress lost to this defendant as aforesaid; that the same and all thereof were properly selected by the defendant under the direction of said Secretary of the Interior; that at the time of the selection thereof this defendant was entitled under said act of Congress to make such selection; that at the time of the selection thereof the railroad of this defendant had been constructed along the route designated by said map along and beyond the said lands and duly approved by the commissioners appointed to examine and report upon the same, and also by the President of the United States, in accordance with the
81 provisions of said act of Congress; and at the time of the selection thereof by and on behalf of this defendant and at the time of the issuance of the patents therefor to this defendant, as hereinbefore stated, said lands and all of them were public lands of the United States, subject to be selected by and patented to this defendant under the provisions of said act of Congress.

That the said patents of and for said lands were duly and properly issued to this defendant on the respective dates mentioned in said bill of complaint; that this defendant has fully complied with the provisions of said act of Congress as successor of said California and Oregon Railroad Company and is thereunder and thereby entitled to have and receive of and from the Government of the United States patents of and for all of

the lands mentioned in said bill of complaint, and that if, for any
82 informality, defect, or other cause, this honorable court should hold said patents, or any of them, defective or void, this defendant is, and would still be, entitled to demand, have, and receive of and from the the United States other patents of and for each, every, and all the said tracts, pieces, and parcels of land.

All which matters and things this defendant is ready to aver, maintain, and prove as this honorable court shall direct, and humbly prays to be hence dismissed, with its reasonable costs and charges in that behalf most wrongfully sustained.

[SEAL.]

CHAS. CROCKER,
2d Vice-President Central Pacific R. R. Co.
E. H. MILLER, JR.,
Secretary Central Pacific R. R. Co.
HOSMER MCKOON,
Solicitor for Def't.
DELOS LAKE,
Of Counsel.

83 STATE OF CALIFORNIA,
City and County of San Francisco, ss:

On this 14th day of May, 1879, before me personally came E. H. Miller, jr., who, being duly sworn, says that he is the secretary of the corporation "The Central Pacific Railroad Company," the defendant in the above-entitled action; that he has read the foregoing answer and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters which are therein stated on def't's information or belief, and as to those matters that he believes it to be true. And further says that the seal affixed to said answer is the seal of said corporation, and was affixed by authority of the same.

E. H. MILLER, JR.

Subscribed and sworn to before me this fourteenth (14th) day of May, A. D. 1879.

CHARLES J. TORBERT,
United States Commissioner, District of California.

84 (Endorsed:) Due service of a copy of the within answer is hereby admitted this 15th day of May, A. D. 1879. Philip Teare, att'y for pl'ff. Filed 15th May, 1879. L. S. B. Sawyer, clerk. By J. F. O'Beirne, deputy clerk.

85 *Replication.*

Circuit court of the United States for the district of California, Ninth judicial circuit.

THE UNITED STATES OF AMERICA, COMPLAINANT,
vs.
THE CENTRAL PACIFIC RAILROAD COMPANY, DEFENDANT.
} In equity.

The replication of the United States of America, complainant, to the answer of the Central Pacific Railroad Company, defendant:

The repliant saving and reserving to itself, now and at all times here-

after, all and all manner of benefit and advantage of exception which may be had or taken to the manifold insufficiencies of the said answer, for replication thereunto saith that it will aver, maintain, and prove said bill to be true, certain, and sufficient in the law to be answered unto,
86 and that said answer of the defendant is uncertain, untrue, and insufficient to be replied unto by this repliant; that any other matter or thing whatsoever in the said answer contained material or effectual in the law to be replied unto and not herein and hereby well and sufficiently replied unto, confessed and avoided, traversed, or denied is true.

All of which matters and things this repliant is and will be ready to aver, maintain, and prove as the honorable court shall direct, and humbly pray as in and by its said bill it has already prayed.

CHARLES DEVENS,
Attorney-General.
PHILIP TEARE,
United States Attorney, District of California.

(Endorsed:) Service of the within replication hereby admitted this 30th day of May, 1879. Hosmer McKoon, att'y for def't. Filed 30 May, 1879. L. S. B. Sawyer, clerk.

87 *Stipulation that answer be amended.*

In the circuit court of the United States of the Ninth judicial circuit, district of California.

THE UNITED STATES OF AMERICA
vs.
THE CENTRAL PACIFIC RAILROAD COMPANY. } No. 1976. In equity.

It is hereby stipulated that the answer of the defendant to the bill of complaint herein be amended by striking out the words "North half of northwest quarter of section fifteen, containing one hundred sixty acres," in lines 14, 15, 16, and 17 of page 13 of said answer, and inserting in lieu thereof as follows: "Lots 2 and 3 of the northeast quarter and lots 6 and 7 of the northwest quarter of section 13, containing in all eighty-nine $\frac{98}{100}$ acres.
Lots 2 and 3 of the northeast quarter and lots 6 and 7 of the north-
88 west quarter of section fifteen containing in all ninety-one $\frac{58}{100}$ acres. Lots 2 and 3 of the northeast quarter and lots 6 and 7 of the northwest quarter of section seventeen, containing in all ninety-two $\frac{32}{100}$ acres. And further by striking out, beginning with the words "Northeast quarter" in lines 25 and 26 of page 16 of said answer down to and including the words "sixty acres" in line 4 of page 17 thereof, and insert as follows: "The southerly part of the east half of section three, containing one hundred and forty-one $\frac{28}{100}$ acres; the southerly part of the northwest quarter of the southwest quarter of section five, containing thirty and $\frac{13}{100}$ acres. The fractional northwest quarter and the northwest quarter of the northeast quarter and the northeast quarter of the southwest quarter, and lots 3 and
4 of the southwest quarter of section seven, containing in all three
89 hundred and eight $\frac{6}{100}$ acres, the east half of section nine, containing three hundred and twenty acres."

And further, by striking out the words "south half of section eleven, containing three hundred and twenty acres," in lines 20, 21, and 22 of page

17 of said answer, and insert in lieu thereof "north of base line and west of Mount Diablo meridian, in township sixteen, range three, lots 6 and 7, the south half of the southwest quarter of section one, containing in all two hundred and thirty-eight $\frac{65}{100}$ acres; lots 6 and 7 in and the southwest quarter, and lots 10 and 11 in and the southeast quarter of fractional section three, containing in all two hundred thirty-seven $\frac{6}{100}$ acres; section eleven, containing six hundred and forty acres."

That said amendments be filed by said defendant and be taken as portions of said answer without verification and without re-engrossing said answer. That the general replication filed by complainant herein stand and be taken as the replication to said answer as amended.

PHILIP TEARE,
U. S. Att'y & Solicitor for Pl'ff.
HOSMER MCKOON,
Solicitor for Def't.

(Endorsed:) Filed March 9th, 1881. L. S. B. Sawyer, clerk. By J. F. O'Beirne, deputy clerk.

Amendments to answer.

In the circuit court of the United States of the ninth judicial circuit, district of California.

THE UNITED STATES OF AMERICA
vs.
THE CENTRAL PACIFIC RAILROAD COMPANY. } No. 1976. In equity.

Amendments to the answer of defendant herein filed by leave of court and by consent of the parties hereto.

Strike out the words "North half of northwest quarter of section fifteen, containing one hundred and sixty acres," in lines 14, 15, 16, and 17 of page 13 of said answer, and inserting in lieu thereof as follows: "Lots 2 and 3 of the northeast quarter, and lots 6 and 7 of the northwest quarter of section thirteen, containing in all, eighty-nine $\frac{98}{100}$ acres; lots 2 and 3 of the northeast quarter, and lots 6 and 7 of the northwest quarter of section fifteen, containing in all, ninety-one and $\frac{58}{100}$ acres; lots 2 and 3 of the northeast quarter and lots 6 and 7 of the northwest quarter of section seventeen, containing in all ninety-two $\frac{32}{100}$ acres."

Strike out, beginning with the words "northeast quarter," in lines 25 and 26 of page 16 of said answer, down to and including the words "sixty acres," in line 4 of page 17 thereof, and insert as follows: "The southerly part of the east half of section three, containing one hundred and forty-one $\frac{28}{100}$ acres; the southerly part of the northwest quarter of the southwest quarter of section five, containing thirty and $\frac{13}{100}$ acres; the fractional northwest quarter and the northwest quarter of the northeast quarter, and the northeast quarter of the southwest quarter, and lots 3 and 4 of the southwest quarter of section seven, containing in all three hundred and eight $\frac{6}{100}$ acres; the east half of section nine, containing three hundred and twenty acres."

Strike out the words "south half of section eleven, containing three hundred and twenty acres," in lines 20, 21, and 22 of page 17 of said an-

swer, and insert in lieu thereof "north of base line and west of Mount Diablo meridian, in township sixteen, range three, lots 6 and 7, and the south half of the southeast quarter, and lots 2 and 3, and the south half of the southwest quarter of section one, containing in all, two hundred and thirty-eight $\frac{65}{100}$ acres; lots 6 and 7 in and the southwest quarter, and lots 10 and 11 in and the southeast quarter of fractional section three, containing in all two hundred thirty-seven $\frac{6}{100}$ acres; section eleven, containing six hundred and forty acres."

HOSMER P. MCKOON,
Solicitor for Defendant.

94 (Endorsed:) Service of the within amendments admitted by copy this 9th day of March, 1881. Philip Teare, U. S. att'y & sol. for comp't. Filed 9th March, 1881. L. S. B. Sawyer, clerk. By J. F. O'Beirne, dep. cl'k.

95 *Order that amended answer be filed.*

At a stated term, to wit, the July term, A. D. 1882, of the circuit court of the United States of America of the ninth judicial circuit in and for the district of California, held at the court room in the city and county of San Francisco on Monday, the 17th day of July, in the year of our Lord one thousand eight hundred and eighty-two.

Present, the Honorable Lorenzo Sawyer, circuit judge.

THE UNITED STATES
vs.
THE CENTRAL PACIFIC RAILROAD COMPANY. } No. 1976.

This cause coming on to be heard this day upon the motion for leave to amend the answer herein on motion of Delos Lake, esq., on behalf of the defendant, Philip Teare, esq., U. S. attorney, having been
96 heard in opposition thereto, it is ordered that an amended answer be filed herein subject to the replication already filed and subject to the testimony already taken, the oath to said amended answer being waived.

I hereby certify that the foregoing is a full, true, and correct copy of an original order made and entered in the above-entitled cause.

Attest my hand and the seal of said circuit court this 1st day of February, A. D. 1886.

[SEAL.]

L. S. B. SAWYER, *Clerk.*
By F. L. MONCTON,
Deputy Clerk.

97 In the circuit court of the United States, ninth circuit district of California.

THE UNITED STATES
vs.
THE CENTRAL PACIFIC RAILROAD COMPANY. } In equity.

Amendments to answer.

On last page, before the words of last paragraph, "all which matters and things," insert as follows:

Defendant, further answering, says that prior to the 1st day of January, 1873, and long prior to the 24th day of May, A. D. 1877, and prior to

the commencement of this suit, this defendant had sold, transferred, and conveyed to divers bona fide purchasers, for good and valuable considerations, each and every parcel of land mentioned in the bill of com-
98 plaint herein, and lying within the exterior boundaries of the pretended grant or claim of the said Manuel Diaz, which was patented to or selected by the defendant prior to the final rejection of said Diaz claim, excepting such portions of the right of way belonging to this defendant over portions of said lands as were granted to the California & Oregon Railroad Company by the third section of the act of Congress approved July 26, 1866, entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific Railroad in California to Portland, in Oregon."

That on said 24th day of May, 1877, at the time of the filing of the bill of complaint in this suit, this defendant did not, never since has, and does not now own any part or parcel of the lands theretofore conveyed by it as aforesaid, nor has any interest herein.

That all of said lands so conveyed by this defendant were, prior
99 to the commencement of this suit, and still are, in the actual possession of other persons than this defendant, holding and claiming title thereto by virtue of conveyances from this defendant and divers mesne conveyances, and that said persons have settled upon and improved the said lands and hold and claim title thereto by virtue of said conveyances, and that said persons are the real parties in interest, and should each and all be made parties defendant in this suit; that many of said tracts and parcels of lands have descended to heirs and minor children, and other portions have been mortgaged and conveyed to other persons, and this defendant does not know who are the real parties in interest or were at the time of the commencement of this action claiming the lands heretofore conveyed by this defendant.

And this defendant, further answering, says that heretofore and
100 on the 1st day of October, A. D. 1870, the said defendant, by deed made and executed on that day, granted, bargained, sold, and conveyed to Charles Crocker & Silas W. Sanderson, all the land mentioned and described in the bill of complaint, for the purpose of securing the payment of ten thousand bonds of the said defendant, amounting to the sum of ten millions of dollars, bearing even date therewith, payable twenty years from their date with interest at the rate of six per cent. per annum. That said bonds were duly made by said defendant and sold, and are now in the hands of bona fide purchasers thereof, to the full amount of said ten millions of dollars, and that no part of the principal thereof has been paid. That said conveyance to said Crocker and Sanderson was, on or about the day of October, A. D. 1871, duly recorded in the office of the county recorder of the county in which the lands mentioned in the bill of complaint herein are situated, and that said
101 Charles Crocker and Silas W. Sanderson are parties in interest in this suit and should be parties defendant herein.

H. P. McKOON,
Solicitor for Def't.

DELOS LAKE,
Of Counsel.

(Endorsed:) Service of the within amendments admitted by copy this 1st day of July, 1882. Philip Teare, U. S. att'y. By Van Duzer, ass't U. S. att'y. Filed July 11, 1882. L. S. B. Sawyer, clerk. Refiled July 17, 1882. L. S. B. Sawyer, clerk.

102 *Enrollment.*

In the circuit court of the United States, ninth circuit, district of California.

THE UNITED STATES OF AMERICA, complainant, *vs.* THE CENTRAL PACIFIC RAILROAD COMPANY, respondent. } No. 1976.

The complainant filed its bill of complaint herein on the 15th day of October, 1878, which is hereto annexed.

A subpœna to appear and answer in said cause was thereupon issued, returnable on the first Monday of December, A. D. 1878, which is hereto annexed.

The respondent appeared herein on the 2d day of December, 1878, by Hosmer P. McKoon, esq., its solicitor.

On the 31st day of December, 1878, a demurrer was filed
103 herein, which is hereto annexed.

On the 3d day of February, 1879, an order on said demurrer was made and entered herein, a certified copy of which order is hereto annexed.

On the 17th day of February, 1879, an amended bill of complaint was filed herein, which is hereto annexed.

On the 15th day of May, 1879, an answer was filed herein, which is hereto annexed.

On the 30th day of May, 1879, a replication to said answer was filed herein, which replication is hereto annexed.

On the 9th day of March, 1881, a stipulation and amendments to answer were filed herein, which are hereto annexed.

On the 17th day of July, 1882, an order was made and entered herein, a certified copy of which order is hereto annexed, and amendments to answer were refiled herein, which amendments are hereto annexed.

104 Thereafter a final decree was filed and entered herein, in the words and figures following, to wit:

Decree.

At a stated term, to wit: The November term, A. D. 1885, of the circuit court of the United States of America, of the ninth judicial circuit, in and for the district of California, held at the court room in the city and county of San Francisco, on Monday, the first day of February, in the year of our Lord one thousand eight hundred and eighty-six.

Present, the honorable Lorenzo Sawyer, circuit judge.

UNITED STATES OF AMERICA
vs.
CENTRAL PACIFIC RAILROAD COMPANY. } No. 1976.

This cause came on to be heard at the July, 1885, term of said
105 court, and was argued by counsel; and, thereupon, upon consideration thereof, it is ordered, adjudged, and decreed that the said complainant's bill herein be, and the same hereby is, dismissed.

(Signed) LORENZO SAWYER,
U. S. Circuit Judge, Ninth Jud'l Circuit.

(Endorsed:) Filed and entered February 1st, 1886. L. S. B. Sawyer, clerk.

106 *Clerk's certificate.*

Whereupon, said pleadings, subpœna, certified copies of orders, stipulation, and final decree are hereto annexed, said final decree being duly signed, filed, and enrolled pursuant to the practice of said circuit court.

Attest, etc.:
[SEAL.]
L. S. B. SAWYER, *Clerk*,
By F. D. MONATON,
Deputy Clerk.

(Endorsed:) Enrolled papers. Filed February 1st, 1886. L. S. B. Sawyer, clerk. By F. D. Moncton, deputy clerk.

107 *Opinion.*

United States v. Central Pacific Railroad Co., January 29, 1886.

Railroad land grant within Mexican grants. Under the act of 1866, 14 Stats., 239, granting land to aid in the construction of the California and Oregon Railroad, lands outside the forty-mile limit of the specific grant, and within the exterior limits of an alleged Mexican grant, are subject to selection in lieu of the alternate odd sections otherwise disposed of, at the time of the definite location of the road, situated within the forty-mile limit, at any time after the final rejection of such Mexican grant.

Lieu lands.—The grant does not attach to the odd sections of lands outside the forty-mile limit of the specific grant until the selection is actually made by the railroad company under the direction of the Secretary of the Interior, in lieu of lands otherwise disposed of within said limit.

Same.—If at the time such selection of outside lien lands is
108 made, a claim under a Mexican grant, embracing the lands selected within its exterior limits, has been finally rejected, the lands have ceased to be sub judice; and are subject to selection.

Premature selection.—Although such lieu lands have been selected and patented prematurely before the final rejection of the grant, yet, in a suit by the United States to vacate the selection and patent, commenced long after the final rejection of the grant, on the ground that it was issued by mistake, will not be sustained where it does not appear that any private party has acquired any interest in the lands so selected, or that the Gov-

ernment has become subject to any obligation in relation to said land, and has sustained no injury by reason of such premature selection and patent.

Same.—In such case, if the patent were vacated, the railroad
109 company would now be entitled to select an equal amount of other lands within the limits, and even to select the same lands, they being now subject to selection, and to receive a new patent therefor. A court of equity will not correct a mutual innocent mistake, from which no injury can result, when it would be inequitable to do so. It will not do a vain thing.

Indispensable parties.—The owners of the land at the time of filing a bill in equity to vacate a United States patent are indispensable parties to the bill, and where it appears at the hearing that the bill is filed only against parties who have no interest in the lands it will be dismissed for want of necessary parties.

Exterior bounds of Mexican grant.—Where three exterior boundaries of a Mexican grant and the quantity of land are designated, the fourth exterior boundary is found by running a line parallel to the opposite
110 boundary a sufficient distance therefrom to include the quantity of land called for.

Statute July 25, 1866, 14 Stats., 239, construed; Newhall *v.* Sanger, 92 U. S., 761, distinguished. This case same as Ryan *v.* C. P. Railroad Co., 5 Saw., 260, affirmed in 99 U. S., 382.

Before Sawyer, circuit judge. S. G. Hilborn, for complainant; Bennett & Wigginton, for respondent.

Sawyer, circuit judge: This is a suit on the part of the United States to vacate three patents alleged to have been improperly issued, by mistake, to respondent for lands under the Congressional grant to the California and Oregon Railroad Company, to aid in the construction of a railroad, under the act of July 25, 1866, 14 Stats., 239. The patents cover, in the aggregate, something over twenty thousand acres. It is alleged that at the time the grant attached by the definite location of the road the
111 lands were within the exterior limits of a Mexican grant, a claim for confirmation of which was then pending and undetermined in the courts, and being sub judice, they were not public lands, and, therefore, not within the terms of the grant. The dates of the patents, respectively, are March 5, 1872, March 17, 1875, and December 20, 1875. The plat of definite location provided for under the act was filed on July 1, 1867.

The alleged Mexican grant to Diaz was presented for confirmation August 31, 1852, and rejected by the board of land commissioners as invalid October 30, 1854. The district court affirmed the decision rejecting the grant March 15, 1858. On July 1, 1857, the claim was again rejected by the circuit court, and the decree of the circuit court was affirmed, on appeal, and the grant finally rejected by the United States Supreme Court March 3, 1873. The grant, therefore, never had the approval of any one of the four tribunals through which it passed, and the original de-
112 cree of 1854 rejecting it was affirmed by each, showing that there never was any merit in the claim under the alleged grant.

It thus appears that the first patent sought to be vacated was issued before the final rejection of the grant, and the other two more than two years and two years and nine months, respectively, after its final rejection. It

is insisted, on the part of complainant, that the grant attached to the specific lands on the filing of the map of definite location in 1867 before the final rejection of the Mexican grant, and that the lands, being then sub judice, they were not public lands, and not within the terms of the grant, as held in regard to the Moquelemos grant in Newhall *v.* Sanger, 92 U. S., 761. But these lands occupy a position entirely different from those involved in that case, and are not within that decision. None of these lands are within the forty-mile limit of the grant, to the specific odd sec-
113 tions of which the grant, by virtue of the act ipso facto attaches by the filing of the plat of definite location. The act grants "every alternate section of public land, not mineral, designated by odd numbers," to the number of ten, on each side of the road, or within a limit of forty miles, or twenty miles on each side; and then provides that "when any of said alternate sections or parts of sections shall be found to have been granted, sold, reserved, occupied by homestead settlers, pre-empted, or otherwise disposed of, other lands, designated as aforesaid, shall be selected by said companies in lieu thereof, under the direction of the Secretary of the Interior, in alternate sections, designated by odd numbers as aforesaid, nearest to and not more than ten miles beyond the limits of said first-named alternate sections;" that is to say, within ten miles outside of the forty-mile limit. The grant in such cases does not attach to the
114 specific sections of outside lands on the filing of the plat, but it remains a mere "float," until it is ascertained that there is a deficiency within the limits of the specific grant, and until the selections outside are, in fact, made under the direction of the Secretary of the Interior.

The grant does not attach to the specific alternate sections of lieu lands until the selection is so made by the company which has the right of selection, and recognized and adopted by the Secretary. If at the time the selection is so made, recognized, and adopted, the lands have ceased to be sub judice and are subject to grant, the rights of the company vest, and are valid.

This point is settled in the case of Ryan *vs.* The Central Pacific Railroad Company, arising under the same grant to the Oregon and California Railroad Company, and affected in precisely the same way, by the claim under the same alleged Mexican grant to Diaz. 5 Saw. 260, affirmed
115 on appeal by the United States Supreme Court, 99 U. S., 383. Also affirmed in S. P. R. *vs.* W. R., 102 U. S. 731. See also Grinnill *vs.* R. Co., 103 U. S., 739; C. R. R. Co. *vs.* Herring, 110 U. S., 27; K. P. R. Co. *vs.* A. T. R. & S. F. R. Co., ib., 614.

The land involved in that case was embraced in one of these very patents, that of March 17, 1875, and the case is, therefore, decisive on the identical question now presented. Both the circuit and Supreme Courts distinguished that case from Newhall v. Sanger on the principle hereinbefore stated. The lands covered by the last two patents set out in the bill are situated precisely as the lands in Ryan's case were, under the same grants and judicial proceeding. They are all lieu lands, situate outside the forty mile limit, and required to be selected before the Congressional grant attached. The lands were selected and patented after the rejection of the Diaz grant, and after they had ceased to be sub judice. The
116 title is, therefore, perfect as to the lands covered by the two patents issued in 1875, as is settled by the cases cited. The patents were,

therefore, properly issued, and as to those two patents the bill must be dismissed.

The only difficulty I have in the case relates to the first patent, issued in 1872, before the final rejection of the claim under the Diaz grant, and while the lands so selected and patented were still sub judice, and for that reason only at the time not subject to selection under the decision of Newhall v. Sanger. The lands embraced in this patent were also all lien lands situated outside the forty mile limit of the specific grant. They are, therefore, in an entirely different position from those inside the forty mile limit. Those inside the forty mile limit, under the decision of Newhall v. Sanger, being sub judice at the time the grant attached to the
117 specific odd sections, were not within the terms of the grant at all, but were regarded in a certain sense as otherwise disposed of, and the subsequent removal of the cloud over them did not bring them within the grant. But being reserved, or so otherwise disposed of, as to prevent the attaching of the Congressional grant, Congress provided for supplying the deficiency, not out of these same lands after the claim should be rejected, but out of other outside lands that should be open to grant when the selection should be made. Congress intended that the company should have its ten sections of land to a mile of the road, and provided that the lands outside might be selected in lieu of those already appropriated inside. In Ryan's case the Supreme Court held that the deficiency may be made up by selections made outside at any time after any lands covered by a pending claim are released from that claim, after they cease to be sub
118 judice and become in every sense public lands, open to other disposition. Now the only difficulty in regard to this patent is, that the selection and patent were premature. Had the company waited till after the rejection of the Diaz claim before selecting, the selection and patent of identically the same lands would have been good. If this selection and patent fail, the defendant has not yet received all the lands to which it is entitled, and it is still entitled to select an equal amount of outside lands within the prescribed limits, provided a sufficient quantity of unappropriated lands is left for the purpose. It does not appear that anybody else has acquired any interest in these lands patented, and since they are patented it is not probable that any adverse interest in them has been acquired. If this patent should be vacated, therefore, being no longer sub judice, the defendant would now be entitled to select these
119 identical lands to compensate for the loss and receive another patent for them. The Diaz grant having long since been finally rejected. the lands would be now open for selection, in pursuance of the decision in Bryan's case. The result might be only the substitution of another patent to the same lands for the one vacated, at a great deal of further trouble and expense, both to the United States and to the respondent.

The very defense to this suit, brought long after the first rejection of the grant and the claim now set up to the lands under these patents, is a manifestation now of an intent to select those lands. Morally and legally the defendant is at this time clearly entitled to have these identical lands, there being no adverse claims to them. There is really no equity shown now in favor of the Government. On the contrary, the equities are all in favor of the defendant. The Government has realized all the
120 benefits to be derived from the construction of the road. It made the same innocent mistake, if mistake there was made by the

defendant, whereby the defendant may lose a part of its lands, and treated these lands as subject to grant, and, having done so, it has presumably received double the ordinary price for the alternate even sections. So that it has in fact given away nothing and lost nothing. It has received all it ever would have received had the grant not been made and the road either not been built or been built. The Government is not, and it never would have been, entitled to anything more. Whereas, on the other hand, the defendant, in case of the vacation of the patent, has not got its full consideration; has not got all the land to which it is entitled, and which the Government is bound to give, and it is now entitled to select the very same lands should the patent be vacated. In fact, the
121 probability is that all the other lands have already been sold by the Government and the purchase money received by it, so that there will at this time be no lands except these out of which the grant can be satisfied. It does not appear that the United States has assumed any obligation to other persons with respect to these lands, or that they can in any way sustain any injury by the action already had, merely prematurely taken, or that anybody else has acquired any adverse interest or claim in the lands, or will in any way suffer by reason of these patents.

The vacation of this patent would involve the necessity of issuing another for the same, or an equal amount of other lands, if any there be, of substituting a new patent for the one vacated. Courts of equity will not do a vain thing, will not sustain a bill where no injury results from a mere innocent error in fact or law upon which it is based, and especially
122 where that error consists merely in doing a little earlier than it should be done, a thing entirely proper to be done at the right time, and which, if now undone, must be done over again. "Courts of equity do not any more than courts of law sit for the purpose of enforcing moral obligations or correcting unconscientious acts which are followed by no loss or damage." (1 Story's Eq. Jur., 203.) Much less will it interfere where no injury results, and there is only a mutual innocent mistake, there being no moral wrong, and where to correct the mistake in favor of the party complaining would be inequitable, and work an injury to the other party. Besides, if these lands are now lost, all others open to selection having at this day been disposed of, by reason of a change of circumstances, the parties could not be placed in statu quo. (1 Story's Eq. Jur., 138 a, 138 c.)

I think this patent is now within the principles established in
123 Ryan's case; on these grounds the bill as to this patent also should be dismissed.

A large portion of the lands—some six thousand acres, I believe—covered by these patents and indicated in the answer and evidence, were conveyed in fee-simple absolute, to various parties before the filing of this bill, and the defendant had at the commencement of this suit, and it now has, no interest whatever in them. There is no party to the bill having any interest in these lands. No decree can be made affecting those lands without having the holders or somebody before the court having an interest in them. (United States v. C. P. R. R. Co., 8 Saw., 81.) The grantees of the patentee of these lands are indispensable parties to the suit. The bill must be dismissed as to those lands on this ground also.

So, also, the defendant has conveyed all of these lands in trust to secure

124 the payment of bonds, to the amount of ten millions dollars, issued and put upon the market. Although the respondent is interested in the residuum after paying the bonds, and is therefore a proper and doubtless a necessary party, as to all the lands not absolutely conveyed as before stated, there is no bondholder, trustee, or representative of the bondholders made a party to the suit, and no decree can be made affecting their rights, without their presence.

It is but just to observe, on behalf of the Government, that this suit was commenced after the decision of Newhall v. Sawyer, 92 U. S., 761, and before the decision in Ryan v. C. P. R. R. Co., 99 Id., 382, and in all probability without noticing the distinction established by the latter case, which takes this suit out of the rule laid down in the former. Had the latter case been decided before the commencement of this suit, it is but reasonable to presume that it never would have been instituted.

125 The answer denies that certain portions of the lands embraced in the first patent of 1871 and some embraced in the other patents were within the exterior boundaries of the Diaz grant, and alleges that they are wholly outside those boundaries. If this be so, those lands so situated are in any event properly patented to the defendant, and the title to them is perfect. Whether they are within the exterior boundaries of the Diaz grant or not, depends upon how those boundaries are located, and probably no two surveyors, if left to themselves, would have located them alike. Surveyor-General Hardenburg located them in 1873, and Colonel Von Schmidt again located them in 1880, under the direction and supervision of Surveyor-General Wagner, and, I presume, expressly for the purposes of this suit, as I know of no other occasion for their

126 determination, but these locations differ very widely. In my judgment, Wagner's location is much more accurate than Hardenburg's. Wagner's seems to have been located upon the principles stated and approved by Mr. Justice Field in Henshaw v. Bissell, 18 Wall., 262, decided after Hardenburg's location was made. Says Mr. Justice Fields: "With the breadth of the tract stated, the quantity limited, the southern and eastern lines designated, all the elements are given essential to the complete identification of the land. A grant of land thus identified, or having such descriptive features, as to render its identification a matter of absolute certainty, entitled the grantee to the specific tract named." (Id., 253.)

I think, upon the principle thus stated, we have the elements from which the exterior boundaries of the Diaz grant can be ascertained with reasonable certainty. It is described in his petition and the annexed

127 diseño, which was an unusually good one. We find from these documents that his grant was "joining to the north with Mr. Larkin's farm; to the south with the plains, also vacant; to the east with lands already solicited, and to the west by the mountains," and the quantity was eleven square leagues. Turning to the diseño we find it platted in a parallelogram, as bounded on the north by Larkin's land, beyond which we can not go, on the east by Jimeno's grant, on the south by a line drawn at right angles to the westward from Jimeno's west line, on the south of which line the lands, for a distance of many miles, appear to be vacant. The mountains are sketched to the west.

Thus we have all the elements for locating the grant with proximate

and reasonable precision. Larkin's line on the north, Jimeno's on the east, the mountains on the west, and the quantity. Taking these
128 given boundaries, and the fourth can only be drawn just far enough south to take in, with the other three boundaries, eleven square leagues of land. On any other principle there would be no certainty whatever, for the south line might just as well be drawn fifty miles further south as five.

This appears to me to be the only reasonable way of determining the exterior boundaries of the Diaz grant, and I adopt it. It seems to have the approval of the United States Supreme Court, and this seems to be the theory of Surveyor-General Wagner's survey in 1880, and the boundaries so located to have his approval. Upon this location of the exterior boundaries of the grant a considerable portion of the land in the oldest patent issued, as well as in the others, lies entirely outside of the exterior boundaries of the grant, and they were public lands, not sub judice, at the time of the selection and patent, and were then subject to be taken by the
129 railroad grant and were rightfully patented. On this ground, also, the bill must be dismissed as to all the lands embraced in the several patents which lie north of the south line of Larkin's rancho, and all lying south of a line drawn from the Jimeno ranch westward to the mountains, far enough south of Larkin's line to embrace eleven square leagues of land.

The bill must be dismissed on the several grounds indicated, and it is so ordered.

(Endorsed:) Read in open court January 29th, 1886. L. S. B. Sawyer, clerk. By F. D. Moncton, deputy clerk.

130 U. S. circuit court, district of California.

THE UNITED STATES,
vs.
THE SOUTHERN PACIFIC RAILROAD COMPANY. } In equity. 1976.

Evidence introduced before examiner.

131 In the circuit court of the United States, ninth circuit, district of California.

THE UNITED STATES,
vs.
THE CENTRAL PACIFIC RAILROAD COMPANY. } 1976.

Record of evidence introduced in the above-entitled cause before the examiner.

Evidence.

TUESDAY, *February* 24, 1880.

Present: W. E. Lovett, esquire, assistant United States attorney; H. P. McKoun, esquire, of counsel for respondent.

Complainant puts in evidence exemplification from the General Land Office, dated June 12th, 1878, of so much of letters patent of the United States, issued March 5th, 1872, to the Central Pacific Railroad Company

132 (successor by consolidation of the California and Oregon Railroad Company), as embraces lands lying within the limits of the Manuel Diaz grant claim, the said lands being described as follows, to wit: North of base line and west of Monte Diablo meridian, township 17, range 2, in the Marysville land district of the State of California, being lots numbered 3 and 4 of northeast quarter and southeast quarter of section 15, containing $269\frac{32}{100}$ acres of land; east half of northeast quarter, and lots numbered 2 and 3, of section 35, containing $184\frac{56}{100}$ acres; north of base line and west of Mt. Diablo meridian, being within the indemnity limits, township 17, range 12, all of section 7, containing $652\frac{40}{100}$ acres; lots numbered 1 and 2 of the northwest quarter and southwest quarter of section 15, containing $268\frac{44}{100}$ acres; lots numbered 1, 2, 3, and 4, and south half of section 17, containing $533\frac{24}{100}$; all of section 19, containing
133 $645\frac{98}{100}$; southeast quarter of northwest quarter, east half and southwest quarter of section 27, containing 520; all of section 29, containing 640 acres; all of section 31, containing $641\frac{60}{100}$ acres; north half of northwest quarter, southwest quarter of northwest quarter, northwest quarter of southwest quarter, south half of southwest quarter, and south half of southeast quarter of section 33, containing 320 acres; northwest quarter of northwest quarter and lot numbered 1 of southwest quarter of section 35, containing $92\frac{28}{100}$; township 17, range 3; all of section 1, containing 640 acres; all of section 3, containing $639\frac{78}{100}$; south half of section 5, containing 320 acres; all of section 7, containing $636\frac{58}{100}$ acres; north half of northeast quarter, south half of southeast quarter, and west half of section nine, containing 480 acres; all of section 11, containing 640 acres; all of section 13, containing 640 acres; all of section 15, containing 640 acres; all of section 17, containing 640 acres,
134 marked "Complainant's Exhibit A."

Complainant puts in evidence exemplification from the records of the General Land Office, dated June 12, 1878, or so much of letters patent of the United States, issued March 17th, 1885, to the Central Pacific Railroad Company (successor by consolidation to the California and Oregon Railroad Company), as embraces lands within the limits of the reservation for the adjustment of the Manuel Diaz grant claim, lying in the Marysville land district, of the State of California, and described as follows, to wit: North of base line and west of Mt. Diablo meridian, township 16, range 2, lot numbered 4 of northwest quarter and east half of section 3, containing $318\frac{94}{100}$ acres; southwest quarter of northwest and northwest quarter of southwest quarter of section 5, containing 80 acres; northwest quarter, northwest quarter of northeast quarter, northeast quarter of south-
135 west quarter, and lots numbered 3 and 4 of southwest quarter of section 7, containing $308\frac{6}{100}$ acres; east half of section 9, containing 320 acres; all of section 15, containing 640 acres; all of section 19, containing $628\frac{14}{100}$ acres; east half of northeast quarter of section 21, containing 80 acres; northwest quarter of section 23, containing 160 acres; southwest quarter of northeast quarter, northwest quarter and south half of section 29, containing 520 acres; all of section 31, containing $628\frac{6}{100}$ acres; northeast quarter of southwest quarter of section 35, containing 40 acres; township 16, range 3, all of section 1, containing 640 acres; all of section 3, containing $638\frac{40}{100}$; all of section 11, containing 640 acres; northwest quarter of southeast quarter, east half of

southeast quarter, southwest quarter, and north half of section 13, containing 600 acres; all of section 15, containing 640 acres; northeast quarter of southwest quarter, west half of southwest quarter, southeast
136 quarter, and north half of section 23, containing 600 acres; all of section 25, containing 640 acres; all of section 27, containing 640 acres; all of section 35, containing 640 acres; township 17, range 3, northwest quarter of section 23, containing 160 acres; all of section 25, containing 640 acres; southwest quarter of section 27, containing 160 acres; west half of section 35, containing 320 acres, marked "Complainant's Exhibit B."

Complainant also puts in evidence exemplification from the General Land Office, dated June 12th, 1878, of so much of letters patent of the United States, issued December 20, 1875, to the Central Pacific Railroad Company (successors by consolidation to the California and Oregon Railroad Company), as embraces lands within the limits of the reservation for the adjustment of the Manuel Diaz grant claim, lying within the Marys-
137 ville land district of the State of California, said lands being described as follows, to wit: North of base line and west of Mt. Diablo meridian, township 17, range 2, northeast quarter of northwest quarter of section 35, containing 40 acres, marked "Complainant's Exhibit C."

Complainant also puts in evidence exemplification from the General Land Office, dated June 12, 1878, of so much of the list of selections made December 12th, A. D. 1871, by the Central Pacific Railroad Company (successors by consolidation to the California and Oregon Railroad Company), as embraces lands within the limits of the reservation for the adjustment of the Manuel Diaz grant claim, the said lands lying in the Marysville land district of the State of California, and described as follows:
Lots 3 and 4 of NE. ¼ and SE. ¼ of section 15, township 17 north,
138 range 2 west, containing $269\frac{32}{100}$ acres; NE. ¼ of NW. ¼ of section 35, township 17 north, range 2 west, containing 40 acres; E. ½ of NE. ¼ of section 35; lots 2 and 3 of section 35, township 17 north, range 2 west, containing $184\frac{56}{100}$ acres, marked "Complainant's Exhibit D."

Complainant also puts in evidence exemplification from the General Land Office, dated June 12, 1878, of so much of the indemnity selections made December 30th, 1871, by the Central Pacific Railroad Company (successor by consolidation to the California and Oregon Railroad Company) as embraces lands within the limits of the reservations for the adjustment of the Manuel Diaz grant claim. All of S. 7, T. 17 N., R. 2 W., containing $652\frac{40}{100}$ acres. S. W. ¼ and lots 1 and 2 of N. W. ¼ of section 15, township 17 N., range 2 W., containing $268\frac{44}{100}$; S. ½ and lots 1, 2, 3, and 4, of
139 S. 17, T. 17 N., R. 2 W., containing $533\frac{24}{100}$. All of S. 19, T. 17 N., 2 W., containing $645\frac{98}{100}$; E. ½ and S. W. ¼ E. ½ of N. W. ¼ of S. 27, T. 17 N, R. W., containing 520 acres. All of S. 29, T. 17 N., R. 2 W., containing $641\frac{60}{100}$ acres. N. ½ of N. W. quarter and S. W. ¼ of N. W. ¼, N. W. ¼ of S. W. ¼ and S. ¼ of S. W. ¼, S. ½ of S. E. ¼ of S. 33, T. 17 N., R. 2 W., containing 320 acres. N. W. ¼ of N. W. ¼ and lot 1 of S. W. ¼ of S. 35, T. 17 N., R. 2 W., containing $92\frac{28}{100}$ acres. All of S. 1, T. 17 N., R. 3 W., containing 640 acres. All of S. 3, T. 17 N., R. 3 W., containing $639\frac{78}{100}$ acres. S. ½ of S. 5, T. 17 N., R. 3 W., containing 320 acres. All of S. 7, T. 17 N., R. 3 W., containing $635\frac{58}{100}$

acres. W. ½ and N. ½ of N. E. ¼ and S. ½ of S. E. ¼ of S. 9, T. 17 N., R. 3 W., containing 480 acres. All of S. 11, T. 17 N., R. 3 W., containing 640 acres. All of S. 13, T. 17 N., R. 3 W., containing 640 acres. All of S. 15, T. 17 N., R. 3 W., containing 640 acres. All of S. 17, T. 17 N., R. 3 W., containing 640 acres, marked "Complainant's Exhibit E."

140 Complainant also puts in evidence exemplifiation from General Land Office, dated June 12, 1878, of so much of the list of indemnity selections made October 30th, 1874, by the Central Pacific Railroad Company (successor by consolidation to the California and Oregon Railroad Company), as embraces lands with' the limits of the reservation for the adjustment of the Manuel Diaz grant claim, said land being in the Marysville land district of the State of California, and described as follows, to wit:

Part of section.	No. of section.	No. of town.	No. of range.	Area.
				Acres.
Fractional E. ½	3	16 N.	2 W.	319.61
Lot 4 of N. W	3	16 N.	2 W.	39.33
S. W. ¼ of N. W. ¼	5	16 N.	2 W.	40.00
N. W. ¼ of S. W. ¼	5	16 N.	2 W.	40.00
Fractional N. W. ¼	7	16 N.	2 W.	154.05
N. W. ¼ of N. E. ¼	"	"	"	40.00
N. E. ¼ of S. W. ¼	"	"	"	40.00
Lot 3 of S. W. ¼	"	"	"	37.01
Lot 4 of S. W. ¼	"	"	"	37.00
E. ½	9	16 N.	2 W.	320.00
All of	15	16 N.	2 W.	640.00
All of fractional	19	16 N.	2 W.	628.14
E. ½ of N. E. ¼	21	16 N.	2 W.	80.00
141 N. W. ¼	23	16 N.	2 W.	160.00
S. ½	29	16 N.	2 W.	320.00
N. W. ¼	"	"	"	160.00
S. W. ¼ of N. E. ¼	"	"	"	40.00
All of fractional	31	16 N.	2 W.	628.00
N. E. ¼ of S. W. ¼	35	16 N.	2 W.	40.00
All of	1	16 N.	3 W.	640.00
All of fractional	3	16 N	3 W.	638.40
All of	11	16 N.	3 W.	640.00
N. ½	13	16 N.	3 W.	320.00
S. W. ¼	13	16 N.	3 W.	160.00
E. ½ of S. E. ¼	"	"	"	80.00
N. W. ¼ of S. E. ¼	"	"	"	40.00
All of	15	16 N.	3 W.	640.00
N. ½	23	16 N.	3 W.	320.00
S. E. ¼	"	"	"	160.00
W. ½ of S. W. ¼	"	"	"	80.00
N. E. ¼ of S. W. ¼	"	"	"	40.00
All of	25	16 N.	3 W.	640.00
All of	27	16 N.	3 W.	640.00
All of	35	16 N.	3 W.	640.00
N. W. ¼	23	17 N.	3 W.	160.00
All of	25	17 N.	3 W.	640.00
S. W. ¼	27	17 N.	3 W.	160.00
W. ½	35	17 N.	3 W.	320.00

Marked Complainant's Exhibit F.

142 Complainant also offers in evidence certified copy from the office of the United States surveyor-general for California, dated the 23d day of January, 1878, of the petition of Manuel Diaz to the land commissioners to settle private land claims in California, containing, first, petition; second, translation of the grant made by Pio Pico, then Mexican governor of California, to Manuel Diaz on the 18th day of May, 1846, together with the proceedings had before the commissioners in the claim of Manuel Diaz to eleven leagues of land in the Sacramento Valley, Co-

lusa County, containing also a copy of the decision of the land commissioners, denying confirmation of the grant and rejecting the same, and the opinion of the board delivered by Commissioner R. Augustus Thompson, denying the validity of the claim and rejecting the same, marked "Complainant's Exhibit G."

Complainant also puts in evidence a transcript of record
143 from the Supreme Court of the United States in the case of Manuel Diaz to the United States on appeal from the circuit court of the United States for the district of California, marked "Complainant's Exhibit H."

Complainant also puts in evidence exemplification from the General Land Office, dated June 12, 1878, of the letter dated March 3d, 1858, from J. W. Mandeville, then surveyor-general of California, to Thomas H. Hendricks, then Commissioner of the General Land Office at Washington, D. C., referring to the final survey of several ranchos, and stating that the following lands were more or less covered by private grants, to wit: T. 12 N., R. 1 E.; T. 12 N., R. 2 E.; T. 13 N., R. 1 E.; T. 13 N., R. 2 E.; T. 14 N., R. 1 E.; T. 14 N., R. 2 E., Mt. Diablo meridian.

Also stating that these townships are among those that are adver-
144 tised for sale on the 17 day of May, 1858, and asking that such lands may be withholden from sale. Marked "Complainant's Exhibit I."

Complainant also puts in evidence exemplification from the General Land Office, dated June 12, 1878, of letter dated March 19, 1858, from J. W. Mandeville, then United States surveyor-general for California, to Thomas H. Hendricks, then Commissioner of the General Land Office, at Washington, D. C., calling the Commissioner's attention to what purported to be a grant to eleven leagues of land adjoining and west of the "Jimeno" grant, on the Sacramento River, stating that such claim had been rejected by the board of land commissioners, and if such grant should be finally confirmed by the court of last resort, its location would take portions of T. 16 and 17 N., R's 3 and 4 west, Mt. Diablo meridian; calling attention further to the fact that such townships are advertised for sale
145 at Marysville, on the 17 of May, 1858, and asking the Department to take such action in the premises as may be deemed expedient. Marked "Complainant's Exhibit K."

Complainant also puts in evidence exemplification from the General Land Office, dated June 12, 1878, of letter of April 2, 1858, to J. W. Mandeville, United States surveyor-general for California, from Thomas H. Hendricks, Commissioner of the General Land Office, at Washington, acknowledging receipt of the letter of the surveyor-general of the 3d of March, 185 , respecting certain townships of lands which he believed were partially covered by private land claims, and stating that he had communicated with the register and receiver at Marysville on the subject. Marked "Complainant's Exhibit L."

146 Complainant also puts in evidence exemplification from the General Land Office, dated June 12, 1878, of letter dated April 2d, 1858, to the register and receiver of the United States land office at Marysville, California, from Thomas H. Hendricks, Commissioner of the General Land Office, instructing the register and receiver that if, upon investigation, he ascertain that appropriations of townships 12, 13 and 14

north, of ranges 1 and 2 east (Mt. Diablo meridian), and which are proclaimed for sale on the 17th of May, 1858, are covered by private grants, he will be justified in withholding from sale or entry such portions of any or all of said townships. Marked "Complainant's Exhibit M."

Complainant also puts in evidence exemplification from the General Land Office, dated June 12, 1878, of letter dated April 19th, 1858, J. W. Mandeville, United States surveyor-general for California, from
147 Thomas A. Hendricks, Commissioner of the General Land Office, respecting certain lands situated in townships 16 and 17 north, ranges 3 and 4, Mt. Diablo meridian, represented to be covered by private claims, now before the board for confirmation, replying to the communication of said surveyor-general of the 19 of May, stating that the course to be pursued had already been pointed out in the Commissioner's letter of the second instant. Marked "Complainant's Exhibit N."

Complainant also puts in evidence exemplification from the General Land Office, dated June 12, 1878, of letter dated April 19, 1858, to the register and receiver of the United States land office at Marysville, California, from Thomas A. Hendricks, Commissioner of the General Land Office, informing the register and receiver that he would enclose a copy of the communication of that date to the surveyor-general at San Fran-
148 cisco. Marked "Complainant's Exhibit O."

Complainant also puts in evidence certified copy from the office of the United States surveyor-general of California, dated 23d day of January, 1878, of letter from E. O. F. Hastings, register of the United States land office at Marysville, California, June 7, 1858, addressed to J. W. Mandeville, United States surveyor-general at San Francisco, California, stating that the register had received a communication from the Commissioner of the General Land Office calling my attention to the fact that portions of townships 16 and 17, ranges 3 and 4, west Mo'nte Diablo meridian, were covered by private claims, then before the courts for confirmation, and that knowledge had also been received of the letter addressed by the Commissioner of the General Land Office to the United States surveyor-general for California, of April 18, 1858, upon
149 the same subject, and stating that previous to the instructions reaching the register the townships above referred to had been offered for sale under the President's proclamation, and asking the United States surveyor-general what portions of the lands were covered by private claims, and to fix boundaries thereof, so that he, the register, might withhold the same from private entry. Marked "Complainant's Exhibit P."

Complainant also puts in evidence certified copy from the office of the United States surveyor-general for California, dated 23d of January, 1878, of a letter from J. W. Mandeville, United States surveyor-general for California, dated June 10, 1858, to E. O. F. Hastings, register of the United States land office at Marysville, California, stating that in relation to the fact that portions of townships 16 and 17 north, range 3 and
150 4 west, Mt. Diablo meridian, are covered by private grants now before the courts for confirmation, and stating that the only record in this office concerning private land claims on said townships is that of the papers in No. 311 on the docket of the board of U. S. land commissioners for eleven (11) leagues of land in the Sacramento Valley, claimed by Manuel Diaz; that the claim was rejected by the said board, and that

Commissioners Halleck, Peachy, and Bellings addressed a letter to the office of the United States surveyor-general for California, at San Francisco, stating that said claim covered T. 16 and 17 N., R's 3 and 4, and T. 17 N., R. 5 W., acknowledging favor of the 7th instant from the register at Marysville; that information in the premises had been forwarded to the Department at Washington and the letter from the Commissioner to the said United States surveyor-general was the result; and also stating that he has no doubt that there is a claim covering in part or
151 the whole of said townships still unadjudicated in the United States courts, calling the register's attention to section six of the act of March 3d, 1853, to provide for the survey of public lands in California, &c., which says: "Lands claimed under any foreign grant or title are excepted from being offered at public sale." Marked "Complainant's Exhibit Q."

Complainant also puts in evidence exemplification from the General Land Office, dated June 12th, 1878, of letter of June 18th, 1858, from the register and receiver of the Marysville land office to Thomas A. Hendricks, Commissioner of the General Land Office, acknowledging receipt of letter of April 19th, 1858, enclosing copy of letter to the surveyor-general at San Francisco, relative to townships 16 and 17 north, of ranges 3 and 4 west, stating that such letter was not received until after
152 the closing of the public land sale held during the month of May of that year, and that since the receipt of the communication they had deemed it proper to withhold the lands in said townships from private entry or location by pre-emption. Marked "Complainant's Exhibit R."

Complainant also puts in evidence certified copy from office of the United States surveyor-general for California, dated 23d of January, 1878, of letter from E. O. T. Hastings, register of the United States land office at Marysville, California, dated March 19, 1859, to Hon. J. W. Mandeville, United States surveyor-general for California, asking for specific and definite information as to whether T. 17 N., R. 5 W., is covered in whole or in part by any private grant or claim. Marked "Complainant's Exhibit S."

153 Complainant also puts in evidence certified copy from the office of the United States surveyor-general for California, dated the 23d day of January, 1878, of letter of O. P. Sutton, chief clerk in the United States surveyor-general's office, dated March 22, 1859, to E. O. Hastings, register of the land office at Marysville, California, acknowledging favor of the 19th instant and stating that on this day he had called upon the firm of Halleck, Peachy, and Bellings, attorneys for Manuel Diaz, claiming eleven (11) leagues of land in Sacramento Valley, and being case No. 311 on the docket of the United States land commission, and made inquiries upon the subject matter, and received for reply that they still claim that this grant will cover in whole or in part T. 16 & 17 N., R's 3 & 4 W., and T. 17 N., R. 5 W., Mt. Diablo meridian, and stating that for reasons mentioned in his letter of June 10th no more definite or
154 specific information could then be given upon the subject. Marked "Complainant's Exhibit T."

Also certified copy from the office of the United States surveyor-general for California, dated 23 day of January, 1878, of letter of A. J. Sny-

der, register of the land office at Marysville, California, dated October 28, 1861, to E. F. Beale, United States surveyor-general for California, acknowledging receipt of letters of the 27 of September, 24 of October, 1861, transmitting list of townships withdrawn from suspension in the Marysville district, and stating that he had caused an investigation of the records of his office to be made with regard to lands of all townships returned to his predecessor as withheld, and that he was satisfied that his predecessor did properly mark the plats of all townships so returned to him as withheld, amongst which are T's 13 N., R. 6 E.; T. 14 N., R. 5 E.; T.
155 15 N., R. 5 E.; T. 15 N., R. 6 E.; T. 16 N., R. 5 E.; T. 17 N., R. 1 E. Marked "Complainant's Exhibit U."

Also a certified copy from the office of the United States surveyor-general at San Francisco, dated 23 day of January, 1878, of letter from E. F. Beale, United States surveyor-general for California, dated October 31, 1861, to A. J. Snider, register of the United States land office at Marysville, California, transmitting corrected list of townships in the Marysville land district north and west of the Mt. Diablo meridian, suspended at that date on account of private grants or other causes, as follows: T. 16 N., R. 3 W.; T. 16 N., R. W.; T. 17 N., R. 3 W.; T. 17 N., R. 4 W.; T. 17 N., R. 5 W., on account of Manuel Diaz grant. Marked "Complainant's Exhibit V."

Also certified copy from the office of the United States surveyor-general for California, dated 23 day of January, 1878, of letter of
156 L. Upson, United surveyor-general for California, dated September 21, 1865, to the General Land Office at Washington, transmitting for the information of the Department a copy of the letter of Messrs. Halleck, Peachy, and Bellings, informing this office that T. 14 N., R. 5 W., Mt. Diablo meridian, is claimed to be within the exterior boundaries of a grant to Manuel Diaz, now before the United States court for adjudication; also stating that that township had already been sectionized, and requesting that to remove all doubt and cause of conflict that the Department suspend the issuance of patent or evidence of title to lands in said township until the Diaz claim is finally disposed of. Marked "Complainant's Exhibit W."

Also exemplification from the General Land Office dated June 12, 1878, of letter from J. M. Edmunds, Commissioner of the General
157 Land Office, dated November 18th, 1865, to the register and receiver of the United States land office at Marysville, California, suspending homestead entries 304 and 305 of township 14 N., R. 5 W., until the Diaz claim be finally disposed of. Marked "Complainant's Exhibit X."

Also certified copy from the office of the United States surveyor general for California, dated 23 day of January, 1878; of letter dated May 11, 1866, from J. M. Edmunds, Commissioner of the General Land Office, to L. Upson, surveyor-general for California, asking to be informed if the conflict between the Manuel Diaz grant and the pre-emption entry of John Sites, in T. 17 N., R. 4 W., has been decided, or if the same still exists. Marked "Complainant's Exhibit Y."

Also exemplification from the General Land Office dated June 12,
158 1878, of letter from J. M. Edmunds, United States Commissioner of the General Land Office, dated May 29, 1866, to Lawrence Upson,

surveyor-general for California, enclosing map of public surveys California, and instructing the surveyor to cause to be designated in bright colors those townships or parts of townships where the title of the United to the public lands is yet in question, or where the correct boundaries of private grants as finally confirmed have not as yet been indicated on approved township plats transmitted to this office. Marked "Complainant's Exhibit Z."

Also certified copy from the office of the United States surveyor-general for California, dated 23rd day of January, 1878, of letter of L. Upson, United States surveyor-general for California, dated June 23, 1866, to the register of the United States land office at Marysville, California, stating that he had examined the plat of T. 14 N., R.
159 5 W., Mt. Diablo meridian, in connection with the future location of the Manuel Diaz grant, should the same be confirmed by the United States courts. Being satisfied from the evidence that the grant cannot reach so far south, the register is requested to remove the suspension of entries heretofore made in said township. Marked "Complainant's Exhibit AA."

Also certified copy from the office of the United States surveyor-general for California, dated 23d day of January, 1878, of letter of L. Upson, United States surveyor-general for California, by E. Conway, chief clerk, dated June 29, 1866, to J. M. Edmunds, Commissioner of the General Land Office at Washington, D. C., stating that in relation to the conflict between the Manuel Diaz grant and the pre-emption entry of John Sites the suspension of said township has not been withdrawn, as the case above mentioned grant was still before the United States
160 court. Marked "Complainant's Exhibit BB."

Also certified copy from the office of the United States surveyor-general for California, dated 23d day of January, 1878, of letter from L. Upson, United States surveyor-general for California, dated July 9th, 1866, to J. M. Edmunds, Commissioner of the General Land Office, stating, after careful examination, the suspensions in the various land districts of the State on account of private grants, including the Marysville district, as being reduced to two suspensions; first, the Manuel Diaz grant, now before the United States district court, northern district, for adjudication of the title. Marked "Complainant's Exhibit CC."

Also certified copy from the office of the United States surveyor-general for California, dated 23d day of January, 1878, of letter of Sher-
161 man Day, United States surveyor-general, by E. Conway, chief clerk, dated San Francisco, December 10, 1868, to L. B. Ayer, register of the United States land office at Marysville, California, referring to certain township surveys in the Marysville land district, claimed by Manuel Diaz, and stating that the former suspension is hereby modified so as to embrace only T's 16 and 17 N., R. 2 W. The E. $\frac{1}{2}$ of T. 16 N., R. 3 W., and sections 22, 23, 24, 25, 26, 27, 34, 35, and 36 in T. 17 N., R. 3 W., Mt. D. M.; the NE. $\frac{1}{4}$ and W. $\frac{1}{2}$ of T. 17 N., R. 3 W.; the W. $\frac{1}{2}$ of T. 16 N., R. 3 W., and the whole of T's 16 and 17 N., R. 4 W., and T. 17 N., R. 5 W., Mt. D. M., are hereby released from suspension and restored to the body of public lands. Marked "Complainant's Exhibit DD."

Also certified copy from the office of the United States surveyor-general for California, dated 23d day of January, 1878, of letter of Jo-

seph S. Wilson, Commissioner of the General Land Office, to the
162 United States surveyor-general at San Francisco, California, dated February 12th, 1870, requesting to be informed as to what course, if any, exists for the further suspension of sections 22, 23, 24, 25, 26, 27, 34, 35, and 36 of T. N., R. 3 W., Mt. Diablo meridian, informing the surveyor-general that the Manuel Diaz grant having been finally rejected by decision of the district court of the northern district of California March 15th, 1858, and no appeal taken therefrom, and a portion of the lands embraced in the limits of said grant restored to market, and, if no other cause for suspension exist, the remaining portion of the township 17 N., R. 3 W., be released from suspension and the lands restored to market. Marked "Complainant's Exhibit EE."

Also certified copy from the office of the United States surveyor-general for California, dated 23d day of January, 1878, from Sherman
163 Day, United States surveyor-general for California, dated February 25th, 1870, to Hon. J. L. Wilson, Commissioner of the General Land Office, at Washington, D. C., replying to the letter of February 12th, giving status of the Manuel Diaz grant claim. Marked "Complainant's Exhibit FF."

Also exemplification from the General Land Office, dated June 12th, 1878, of the letter to the surveyor-general for California, dated August 16th, 1872, from Willis Drummond, Commissioner of the General Land Office, informing the surveyor-general as to the right of the State to certain portions of the lands lying in T's 17 and 18 N., of R. 2 W., Mt. Diablo meridian, Marysville district, California, which have been segregated by the State as swamp lands. Marked "Complainant's Exhibit GG."

Also exemplification from the General Land Office, dated June 12th, 1878, of letter dated August 26th, 1872, from the office of the
164 United States surveyor-general for California to Willis Drummond, Commissioner of the General Land Office, referring to swamp lands in T's 17 and 18 N., R. 2 W., Mt. Diablo meridian. Marked "Complainant's Exhibit HH."

Exemplification from the General Land Office, dated June 12th, 1878, of letter and enclosures from the United States surveyor-general for California, dated November 26th, 1872, to Willis Drummond, Commissioner of the General Land Office, informing him of the action had by the United States surveyor-general for California in reference to lands in T's 16 and 17 N., R. 2 W., M. D. M., as to the application of the settlers on said township for a survey, and the claim of the State of California for lands in said township for the State university under the act of March 3d, 1871, and the claim of the State of California that a large portion of said
165 township was swamp and overflowed and belonged to the State under the act of 1866; that this township was duly surveyed and the plat filed in the Marysville land office September 12th, 1871, and the examination had upon the application of the State as to the character of the land as to its being swampy or not, marked "Complainant's Exhibit II."

Also certified copy from the office of the United States surveyor-general for California, dated 23d day of January, 1878, of letter from J. R. Hardenbergh, United States surveyor-general for California, dated January 6th, 1873, to the publishers of the Colusa Sun, referring to the Manuel

Diaz grant claim and requesting a discontinuance of the advertisement in relation to swamp-land claims in T's 16 and 17 N., R. 2 W., Mt. Diablo meridian, marked "Complainant's Exhibit HH."

166 Also exemplification from the General Land Office, dated June 12th, 1878, of letter to the United States surveyor-general for California, dated January 9th, 1873, from Willis Drummond, Commissioner of the General Land Office, instructing a suspension of the examination as to the swampy character of the lands in T's 16 and 17 N., R. 2 W., marked "Complainant's Exhibit LL."

Also certified copy from the office of the United surveyor-general for California, dated 23d day of January, 1878, of letter to L. B. Ayer, register of the Marysville land district, from J. R. Hardenbergh, United States surveyor-general for California, dated January 22d, 1873, requesting a suspension of the plats of survey of the following townships on account of the Manuel Diaz grant, namely: T. 16 N., R. 2 W., M. D. M.; T. 17 N., R. 2 W., M. D. M.; T. 16 N., R. 4 W., M. D. M.; T. 17 N., R. 4 W., M. D. M.; T. 17 N., R. 5 W., M. D. M.; east ½ of T.

167 16 N., R. 3 W., M. D. M.; sections 22, 23, 24, 25, 26. 27, 34, 35, and 36 of T. 17 N., R. 3 W., M. D. M.; W. ½ of T. 16 N., R. 3 W., M. D. M.; the NE. ¼ and W. ½ of T. 17 N., R. 3 W., M. D. M., marked "Complainant's Exhibit MM."

Also certified copy from the office of the United States surveyor-general for California, dated 23d day of January, 1878, of letter from W. W. Curtis, Acting Commissioner of the General Land Office, dated June 4th, 1873, to J. R. Hardenbergh, United States surveyor-general for California, requesting him to transmit as early as practicable a corrective diagram of the Manuel Diaz grant and such data as may be connected therewith, marked "Complainant's Exhibit NN."

Also exemplification from the General Land Office, dated June 12th, 1878, of letter dated June 18th, 1873, with enclosures, to the surveyor-general for California from W. W. Curtis, Acting Commissioner

168 of the General Land Office, referring to the action had by the Supreme Court in the case of Manuel Diaz against The United States, appealed from the circuit court of the United States for the district of California, marked "Complainant's Exhibit OO."

Also exemplification from the General Land Office, dated June 12th, 1878, of letter dated July 1st, 1873, with enclosure, from the United States surveyor-general for California to Willis Drummond, Commissioner of the General Land Office, transmitting a diagram of the Manuel Diaz grant, as requested in a letter of June 4th ultimo, marked "Complainant's Exhibit PP."

Continued until to-morrow, 25th instant, at 10 o'clock a. m.

WEDNESDAY, *February* 25, 1880.

Present, Mr. Lovett, of counsel for complainant.

169 Mr. McHoar, of counsel for defendant.

Complainant puts in evidence exemplification from the General Land Office, dated June 12th, 1878, of letter dated November 25th, 1867, from Charles E. Bockins, receiver of the United States land office at Marysville, California, to Joseph S. Wilson, Commissioner of the General Land Office at Washington, acknowledging receipt of Commissioner's

communication of 29th ultimo, and the accompanying map of the line of route of the California and Oregon Railroad between Roseville, on the Central Pacific Railroad, and Salt Creek in T. 32 N., R. 5 W., Mt. Diablo meridian, marked "Complainant's Exhibit QQ."

Also exemplification from the General Land Office, dated June 12th, 1878 of letter dated October 29th, 1867, from Joseph S. Wilson, Commissioner of the General Land Office, to the register and receiver
170 of the Marysville land office, with accompanying map of the designated line of route of the California and Oregon Railroad between Roseville, on the Central Pacific Railroad, and Salt Creek in T. 32 N., R. 5 W., Mt. Diablo meridian, and directing the withdrawal of lands granted thereto under the act of Congress approved July 26th, 1866, with instructions to said register and receiver as to the proper manner of proceeding with the lands in place and the lands in indemnity lines of the route of said railroad, marked "Complainant's Exhibit RR."

Also exemplification from the General Land Office, dated June 12th, 1878, of letter dated September 13th, 1867, from W. T. Otto, Acting Secretary of the Interior, to Joseph S. Wilson, Commissioner of the General Land Office, transmitting map showing the route of the California and Oregon Railroad between Roseville, on the Central Pacific
171 Railroad, and Salt Creek in T. 32 N., R. 5 W., Mt. Diablo meridian, and copy of letter from George T. M. Davis, dated 12th instant, accompanying the same, and instructing the Commissioner to cause the lands to be withdrawn on account of said railroad in accordance with the act of Congress entitled An act granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific Railroad in California to Portland, Oregon, approved July 25th, 1866, marked "Complainant's Exhibit SS."

Also exemplification from the Department of the Interior, dated June 10th, 1878, of letter dated January 22d, 1867, from O. H. Browning, Secretary of the Interior, to John P. Brodie, secretary of the California and Oregon Railroad Company, San Francisco, California, acknowledging the receipt from the Commissioner of the General Land Office of
172 a copy of resolutions adopted at a meeting of the Board of Directors of the California and Oregon Railroad Company, held on the 8th day of October, 1866, assenting to the act of Congress passed July 25th, 1866, marked "Complainant's Exhibit TT."

Also exemplification from the Department of the Interior, dated June 10th, 1878, of a resolution passed at a meeting of the board of directors of the California and Oregon Railroad Company, October 8th, 1866, and certified to by John P. Brodie, secretary of the California and Oregon Railroad Company, assenting to the act of Congress approved July 25th, 1866, marked "Complainant's Exhibit UU."

Also exemplification from the Department of the Interior, dated June 10th, 1878, of letter dated January 21st, 1867, from Joseph S. Wilson to O. H. Browning, Secretary of the Interior, enclosing copy of the resolution of the board of directors of the California and Oregon Rail-
173 road Company assenting to the act of Congress of July 25, 1866, marked "Complainant's Exhibit VV."

Also certified copy from the office of the United States surveyor-general for California, dated January 23d, 1878, of letter dated July 18th,

1873, from Willis Drummond, Commissioner of the General Land Office, to James B. Hardenbergh, United States surveyor-general for California, stating that the Commissioner was in possession of a certified copy of the mandate and opinion of the Supreme Court relative to the claim of Manuel Diaz to a tract of land in the Sacramento Valley, reciting the claim of said Diaz, and instructing the surveyor-general that any township plats that may have been suspended on account of the undecided condition of the said claim be restored to the files of his office, containing also a
174 memorandum by J. D. Wilder, chief draughtsman in the office of the United States surveyor-general for California, bearing date July 28th, 1873, as follows: "The maps are this day marked 'released from suspension' in accordance with the foregoing instructions, with the exception of the swamp land suspension in T. 16 N., R. 2 W., M. D. M., marked 'Complainant's Exhibit WW.'"

Also exemplification from the General Land Office, dated June 12th, 1878, of letter dated May 24th, 1877, from J. A. Williamson, Commissioner of the General Land Office, to Henry Beard, attorney of the Central Pacific Railroad Company, Washington, D. C., demanding of the Central Pacific Railroad Company a relinquishment by it to the United States of its claims to lands recently patented to it as successor by consolidation to the California and Oregon Railroad Company prior to the rendition of the judgment of the Supreme Court of the United
175 States in the case of Newhall vs. Sanger (2 Otto, page 761), declaring that lands within the limits of a grant to a railroad company claimed under foreign grants, unadjudicated at the date of the act making grant to the company, were not lands to which the United States possessed title, and, therefore, could not be disposed of under the grant to the company, with accompanying schedule, showing the tracts lying in townships reserved from sale or entered on the grant claim of Manuel Diaz under a foreign grant, which claim was *sub judice* at the date of the grant to the California and Oregon Railroad Company, July 25th, 1866, at the date of the definite location of the road and at the date when lands were withdrawn for the benefit of the grant to the company, and requesting that this demand for relinquishment be laid before the proper officers of the company in order that relinquishment of its claim to the lands
176 might be made by the company at the earliest possible date. Marked "Complainant's Exhibit XX."

Also exemplification from the General Land Office, dated June 12th, 1878, of letter dated May 28th, 1877, from Henry Beard, attorney for the Central Pacific Railroad Company, to J. A. Williamson, Commissioner of the General Land Office, acknowledging receipt of letter, Exhibit XX, marked "Complainant's Exhibit YY."

(Continued until Thursday, March 4th, at 10 o'clock a. m.)

(Further continued by consent until Monday, September 13, at 11 o'clock a. m.)

MONDAY, *September 13th*, 1880.

Present: Mr. Lovett, of counsel for complainant; Mr. McKoon, of counsel for respondent.

177 The complainant offers in evidence a certified copy of the survey of the original plat of the rejected land claim of Manuel Diaz,

approved July 28th, 1880, certified to by Theodore Wagner, United States surveyor-general of California, on the 4th day of August, 1880, marked Exhibit ZZ.

The complainant offers in evidence copy of a mandate of the Supreme Court of the United States, in Diaz vs. The United States, rejecting the claim of Diaz, dated March 3d, 1873, marked Exhibit AAA.

(Further hearing of this case continued until October 4th, 1880.)

(Further continued by stipulation.)

SATURDAY, *December 23d*, 1882.

Present: A. P. Van Duser, esq., assistant United States attorney; Hosmer P. McKoon, solicitor for respondent.

178 Respondent introduces in evidence:

Letter dated October 29th, 1867, from Commissioner of General Land Office to register and receiver at Marysville, together with a map of the line of route of the California and Oregon Railroad between Roseville, on the Central Pacific Railroad, and township 32 north, range 5 west, Mount Diablo meridian, and directing the register and receiver to withhold from sale, location, or entry the odd numbered sections within the granted limits. (This letter is complainant's Exhibit RR.)

Also letter dated November 25th, 1867, from receiver at Marysville to Commissioner of General Land Office, acknowledging receipt thereof. (This letter is complainant's Exhibit "QQ.")

Also letter dated September 25th, 1886, from Commissioner of General Land Office to register at Marysville, informing register that he
179 had misconstrued the instructions of withdrawal of October 29th, 1867, and adding "The additions above referred to directed you to withhold from disposal all the odd sections for 20 miles on each side of the line of road indicated on diagram as grant in place, and to hold the even sections within said 20 mile limits at $2.50 per acre, subject only to pre-emption and homestead entries at the increased price."

"In regard to the lands in question that fall within the additional limits of ten miles, I have to direct you to withhold from entry the odd sections granted as 'indemnity' lands, and in no manner whatever are the even sections within said latter limits affected by the grant of July 25th, 1866."

Certified copies of the documents above referred to, attached together, are made a part of this record, and marked "Respondent's Exhibit 1."

180 Notice, dated December 28th, 1868, that certain lands, including northeast quarter and west half of township 17 north, range 3 west, which had been suspended from entry and sale were released from suspension, and would be restored to their original status as public lands of the United States on January 29th, 1869, together with affidavit of C. D. Dawson, proprietor of the "Marysville Daily Appeal," that said notice was printed in said paper four weeks, from December 29th, 1868, to January 29th, 1869.

Certified copies of said notice and affidavit attached together are made a part of this record and marked "Respondent's Exhibit 2."

Certified copy of record of proceedings in matter of application of Charles D. Sample to enter certain lands within the indemnity limits of the California and Oregon Railroad, including application and de-
181 cision by register and receiver denying same, dated January 30th,

1869; approval of register and receiver's decision by Commissioner of General Land Office, dated October 27th, 1869; opinion by Commissioner of General Land Office, dated February 26th, 1870, declining to modify his decision; decision of Secretary of Interior, dated July 8th, 1870, affirming decision of Commissioner. Marked "Respondent's Exhibit 3."

Certified copy of record in matter of application of Francis G. Burke, to enter certain lands within the indemnity limits of the California and Oregon Railroad (embracing fractional section 7, south half section 5, and the whole of section 17, all in township 17 north, range 3 west, Mount Diablo meridian, and being part of the lands embraced in the present action), including application of Burke, dated March 9th, 1870, and decision of register of same date denying application; decision of Commis-
182 sioner of General Land Office, dated May 21st, 1870, approving decision of register and receiver, and decision of Secretary of Interior, dated July 14th, 1870, affirming decision of Commissioner. Marked "Respondent's Exhibit 4."

Letter dated April 8th, 1871, from Commissioner of General Land Office to register and receiver at Marysville, with accompanying diagram of line of the California and Oregon Railroad Company from Roseville to Chico, as definitely located, and withdrawing the additional odd-numbered sections thus brought within indemnity limits for said railroad company in townships 15, 16, 17, and 18 south, ranges 3 and 4 west, and restoring to the public domain the odd sections elsewhere, thus falling outside of the indemnity limits.

183 Certified copy of said letter and of said diagram above referred to, attached together and made a part of this record, and marked "Respondent's Exhibit S."

Letter dated June 6th, 1871, from Commissioner of General Land Office to register and receiver at Marysville affirming the action of the register and receiver in rejecting the application of George A. Putnam, dated July 9th, 1870, to purchase, and the application of John H. Jewett, dated March 30th, 1871, to enter $5,276\frac{36}{100}$ acres of the land now embraced in the present action, said letter holding among other things that said lands were withdrawn for the California and Oregon Railroad by virtue of letter of September 25th, 1868 (part of Respondent's Exhibit 1), and that the notice of the register (Respondent's Exhibit 2), "carried only the even-numbered sections back to market, and that these odd-numbered sections were not restored by said notice."

Certified copy of said letter is made a part of this record, and
184 marked "Respondent's Exhibit 6."

Letter dated October 13th, 1871, from Commissioner of General Land Office to register and receiver at Marysville, notifying them that Putnam and Jewett decline to appeal and that the decision of June 6, 1871 (Respondent's Exhibit 6), is final and that the lands are withdrawn for the California and Oregon Railroad Company.

Certified copy of said letter is made a part of this record, and marked "Respondent's Exhibit 7."

Extract from list of lands selected in behalf of respondent by B. B. Redding, its general land agent, December 12th, 1871, with approval of register and receiver of United States land office, Marysville, California, December 13th, 1871.

Certified copy of said extract is made a part of this record, and marked "Respondent's Exhibit 8."

185 Extract from list of indemnity lands, selected in behalf of respondent by B. B. Redding, its general land agent, dated December 30th, 1871, and approval of register and receiver, dated January 1st, 1872.

Certified copy of said extract is made a part of this record, and marked "Respondent's Exhibit 9."

Extract from list of lands approved for patent to respondent by Commissioner of General Land Office and Secretary of Interior, dated March 4th, 1872.

Certified copy of said extract is made a part of this record, and marked "Respondent's Exhibit 10."

Notice, dated August 25th, 1873, that certain lands will be released from suspension and restored to their prior status on and after October 1st, 1873, with affidavit of publication.

186 Certified copy of said notice is made a part of this record and marked "Respondent's Exhibit 11."

Extract from list of lands selected in behalf of respondent by B. B. Redding, its general land agent, October 30th, 1874, with approval of register and receiver United States land office, Marysville.

Certified copy of said extract is made a part of this record, and marked "Respondent's Exhibit 12."

Extract from list of lands approved for patent to respondent by Commissioner of General Land Office and Secretary of Interior, dated February 9th, 1875.

Certified copy of said extract is made a part of this record, and marked "Respondent's Exhibit 13."

Decision of Acting Secretary of Interior, dated April 10th,

187 1875, in case of The State of California versus The California and Oregon Railroad Company, involving east half of section 3 and east half of section 9, and west half of section 15, township 16 north, range 2 west, Mount Diablo meridian, in favor of railroad company, and holding: "It is now agreed that the railroad company is not entitled to these lands because they were included within the claimed limits of said private land claim. They are not needed to satisfy said claim, for that has been declared to be no grant by the highest judicial tribunal known to our laws. The ground of their alleged exclusion from the grant to the railroad company is a technical one, and should be fairly made out by the weight of evidence. I do not think that it has been thus made out. The evidence is shadowy and unsatisfactory, and does not convince me that the lands were within the claimed limits of

188 the Diaz claim."

Certified copy of said decision is made a part of this record and marked "Respondent's Exhibit 14."

Contract of sale from California and Oregon Railroad Company to John H. Rowland, dated January 7th, 1869, covering north half of northwest quarter of section 35, township 17 north, range 2 west, Mount Diablo meridian.

Certified copy of said contract of sale is made a part of this record and marked "Respondent's Exhibit 15."

Deed from Central Pacific Railroad Company, Mark Hopkins and S. W. Sanderson, trustees, to Peter Hagan, dated January 30th, 1871, covering east half of section 17, township 17 north, range 3 west, Mount Diablo meridian.

Certified copy of said deed is made a part of this record and
189 marked "Respondent's Exhibit 16."

Deed from Central Pacific Railroad Company, Mark Hopkins and S. W. Sanderson, trustees, to Henry N. Yates, dated December 14th, 1872, covering south half of southeast quarter of section 33, township 17 north, range 2 west, Mount Diablo meridian.

Certified copy of said deed is made a part of this record and marked "Respondent's Exhibit 17."

Deed from Central Pacific Railroad Company, Mark Hopkins and S. W. Sanderson, trustees, to E. H. Miller, jr., dated December 14th, 1872, covering fractional sections 7, 15, 17, 19; the northeast quarter, the southeast quarter of northwest quarter and southwest quarter of section 27; section 29; fractional section 31; north half of northwest quarter, southwest quarter of northwest quarter, northwest quarter of southwest
190 quarter, south half of southwest quarter of section 33; lots 1 and 2 of southwest quarter, and lot 3 of southeast quarter of section 35, all in township 17 north, range 2 west, Mount Diablo meridian. Also south half of section 5, southeast quarter and fractional west half of section 7, the whole of section 13, south half of section 15, and northwest quarter of section 17, all in township 17 north, range 3 west, Mount Diablo meridian.

Certified copy of said deed is made a part of this record and marked "Respondent's Exhibit 18."

Deed from Central Pacific Railroad Company to W. R. Merrill, dated March 13th, 1873, covering southeast quarter of section 27, township 17 north, range 2 west, Mount Diablo meridian.

Certified copy of said deed is made a part of this record and marked "Respondent's Exhibit 19."

191 Deed from Central Pacific Railroad Company to W. R. Merrill, dated February 5th, 1876, covering north half of northwest quarter of section 35, township 17 north, range 2 west, Mount Diablo meridian.

Certified copy of said deed is made a part of this record and marked "Respondent's Exhibit 20."

Deed from Central Pacific Railroad Company, Mark Hopkins and S. W. Sanderson, trustees, to George M. Sutton and Joseph A. Sutton, dated November 1st, 1877, covering north half of section 15, township 17 north, range 3 west, Mount Diablo meridian.

Certified copy of said deed is made a part of this record and marked "Respondent's Exhibit 21."

Deed from Central Pacific Railroad Company, Mark Hopkins and S. W. Sanderson, trustees, to J. M. Clark, dated December 21st, 1877,
192 covering southwest quarter of section 17, township 17 north, range 3 west, Mount Diablo meridian.

Certified copy of said deed is made a part of this record and marked "Respondent's Exhibit 22."

(Continued, by consent, to January 10th, 1883, at eleven o'clock a. m.)

I certify that the foregoing is a correct and full record of the proceedings in the above-entitled cause.

S. C. HOUGHTON,
Examiner, &c.

(Endorsed:) Opened by stipulation of counsel and refiled August 13th, 1885. L. S. B. Sawyer, clerk.

193 (No. 47.)

EXHIBIT A.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., June 12th, 1878.

I, J. A. Williamson, Commissioner of the General Land Office, do hereby certify that the annexed is a true and literal exemplification, from the records of this office, of so much of letters patent of the United States issued March 5, 1872, to the Central Pacific Railroad Company (successor by consolidation to "The California and Oregon Railroad Company"), as embraces lands lying within the limits of the reservation for the adjustment of the "Manuel Diaz" grant claim.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, the day and year first above written.

[SEAL.

J. A. WILLIAMSON,
Commissioner of the General Land Office.

United States of America, to all whom these presents shall come, greeting:

194 Whereas, by the acts of Congress approved July 25, 1866, June 25, 1868, and April 10, 1869, "to aid in the construction of a railroad and telegraph line from the Central Pacific Railroad in California to Portland, in Oregon," authority is given to the California and Oregon Railroad Company, its associates, successors, and assigns, a corporation existing under the laws of the State of California, to construct a railroad and telegraph line "under certain conditions and stipulation' as expressed in said acts, and provision is made for granting to the said company every alternate section of public land not mineral, designated by odd numbers, to the amount of twenty alternate sections per mile (ten on each side) of said railroad line;"

And whereas it is further enacted in said section "that when any of said alternate sections or parts of sections shall be found to have been granted, sold, reserved, occupied by homestead settlers, pre-empted, or otherwise disposed of, other lands designated as aforesaid shall be selected by said company in lieu thereof, under direction of the Secretary of the Interior, in alternate sections, designated by odd numbers as aforesaid,
195 nearest to and not more than ten miles beyond the limits of said first named alternate sections;"

And whereas an official statement, bearing date January 3, 1871, from the Secretary of the Interior has been filed in the General Land Office, showing that the commissioners appointed by the President under provisions of the fourth section of the first-named act have reported to

him that the said "California and Oregon Railroad and Telegraph Line, commencing at a point in the town of Roseville, in the county of Placer, State of California, thence through the city of Marysville to the town of Chico, in said State, a distance of seventy-seven miles and six-tenths of a mile, has been constructed and fully completed and equipped in the manner prescribed by the acts relative thereto;"

And whereas, by articles of agreement entered into under the laws of the State of California between the said California and Oregon Railroad Company "and the Central Pacific Railroad Company, said companies were "amalgamated and consolidated," under the name of the Central Pacific Railroad Company, upon the twentieth day of August, 1870,
196 as shown by a certificate copy of the articles of consolidation filed in the General Land Office on the first day of March, 1872, by Henry Beard, attorney for said Central Pacific Railroad Company;

And whereas certain tracts of land have been selected by Benjamin B. Bedding, the agent of the said Central Pacific Railroad Company, successor of the said California and Oregon Railroad Company, as shown by his original list of selections, dated December the 12th & 30th, 1871, and certified to under dates of December 13, 1871, and January 1, 1872, by the register and receiver at Marysville, California, and the president of the said Central Racific Railroad Company, successors of the California and Oregon Railroad Company, "has applied for a conveyance of the title to said lands granted by the aforesaid acts of Congress to the said California and Oregon Railroad Company, its associates, successors, and assigns, the said lands being described as follows, to wit: North of base line and west of Mt. Diablo meridian, township seventeen, range two: Lots numbered three and four of northeast quarter and southeast quarter of section fifteen, containing two hundred and sixty-nine acres and
197 thirty-two hundredths of an acre; east half of northeast quarter and lots numbered two and three of section thirty-five, containing one hundred and eighty-four acres and fifty-six hundreths of an acre. North of base line and west of Mt. Diablo meridian, within the indemnity limits, township seventeen, range two: All of section seven, containing six hundred and fifty-two acres and forty hundredths of an acre; lots numbered one and two of the northwest quarter and southwest quarter of section fifteen, containing two hundred and sixty-eight acres and forty-four hundredths of an acre; lots numbered one, two, three, and four and south half of section seventeen, containing five hundred and thirty-three acres and twenty-four hundredths of an acre; all of section nineteen, containing six hundred and forty-five acres and ninety-eight hundredths of an acre; southeast quarter of northwest quarter, east half and southwest quarter of section twenty-seven, containing five hundred and twenty acres; all of section twenty-nine, containing six hundred and forty acres; all of section thirty-one, containing six hundred and forty-one
198 acres and sixty hundredths of an acre; north half of northwest quarter, southwest quarter of northwest quarter, northwest quarter of southwest quarter, south half of southwest quarter, and south half of southeast quarter of section thirty-three, containing three hundred and twenty acres; northwest quarter of northwest and lot numbered one of southwest quarter of section thirty-five, containing ninety-two acres and twenty-eight hundredths of an acre. Township seventeen, range three:

All of section one, containing six hundred and forty acres; all of section three, containing six hundred and thirty-nine acres and seventy-eight hundreths of an acre; south half of section five, containing three hundred and twenty acres; all of section seven, containing six hundred and thirty-six acres and fifty-eight hundredths of an acre; north half of northeast quarter, south half of southeast quarter, and west half of section nine, containing four hundred and eight acres; all of section eleven, containing six hundred and forty acres; all of section thirteen, containing six hundred and forty acres; all of section fifteen, containing six hundred and forty acres; all of section seventeen, containing six hundred and forty acres.

199 Now, know ye, that the United States of America, in consideration of the premises and pursuant to the said acts of Congress, have given and granted and by these presents do give and grant unto the said Central Pacific Railroad Company, successors as aforesaid and to its successors, all the tracts of land described in the foregoing, to have and to hold the same with the appurtenances unto the said Central Pacific Railroad Company and to its successors and assigns forever.

In testimony whereof, I, Ulysses S. Grant, President of the United States, have caused these letters to be made patent and the seal of the General Land Office to be hereunto affixed.

Given under my hand at the city of Washington, this fifth day of March, in the year of our Lord one thousand eight hundred and seventy-two, and of the Independence of the United States the ninety-six.

[SEAL.] U. S. GRANT.

By the President:

By J. PARISH,
Secretary,

By C. B. BOYNTON,
Recorder of the General Land Office.

(Endorsed:) 1976. U. S. v. C. P. R. R. Co. Complainant's Exhibit A. Opened by stipulation of counsel and refiled August 13, 1885. L. S. B. Sawyer, clerk.

200 EXHIBIT B.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., June 12th, 1878.

I, J. A. Williamson, Commissioner of the General Land Office, do hereby certify that the annexed is a true and literal exemplification from the records of this office of so much of letters patent of the United States issued March 17, 1875, to the Central Pacific Railroad Company (successors by consolidation to "The California and Oregon Railroad Company") as embraces lands within the limits of the reservation for the adjustment of the "Manuel Diaz" grant claim.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, the day and year first above written.

[SEAL.] J. A. WILLIAMSON,
Commissioner of the General Land Office.

The United States of America, to all to whom these presents shall come, greeting:

Whereas, by the acts of Congress approved July 25, 1866, June 25, 1868, and April 10, 1869, "to aid in the construction of a railroad
201 and telegraph line from the Central Pacific Railroad, in California, to Portland, in Oregon, authority is given to the California and Oregon Railroad Company, its associates, successors, and assigns, a corporation existing under the laws of the State of California, to construct a railroad and telegraph line, under certain conditions and stipulations as expressed in said acts, and provision is made for granting to the said company "every alternate section of public land, not mineral, designated by odd numbers, to the amount of twenty alternate sections per mile (ten on each side) of said railroad line;"

And whereas it is further enacted in said acts that "when any of said alternate sections or parts of sections shall be found to have been granted, sold, reserved, occupied by homestead settlers, pre-empted, or otherwise disposed of, other lands designated as aforesaid shall be selected by said company in lieu thereof, under direction of the Secretary of the Interior, in alternate sections designated by odd numbers as aforesaid, nearest to and not more than ten miles beyond the limits of said first named alternate sections;

And whereas official statements bearing dates January 3rd, 1871, and January 29, 1874, from the Secretary of the Interior, have been filed in the General Land Office, showing that the commissioners ap-
202 pointed by the President, under provisions of the fourth section of the first named act, have reported to him that the said California and Oregon Railroad and Telegraph Line, commencing at a point in the town Roseville, in the county of Placer, State of California, thence through the city of Marysville, to the ninety-seventh mile post in said State, a distance of ninety-seven miles and six-tenths of a mile, has been constructed and fully completed and equipped in the manner prescribed by the acts relative thereto;"

And whereas, by articles of agreement entered into under the laws of the State of California, between the said California and Oregon Railroad Company and the Central Pacific Railroad Company, said companies were amalgamated and consolidated under the name of the Central Pacific Railroad Company upon the twentieth day of August, 1870, as shown by a certified copy of the article of consolidation filed in the General Land Office on the first day of March, 1872, by Henry Beard, attorney for said Central Pacific Railroad Company.

And whereas certain tracts of land have been selected by Benjamin B. Redding, the agent of the said Central Pacific Railroad Company, successor of the said California and Oregon Railroad Company, as shown by his original lists of selections, dated October 30th and December
203 17th, 1874, and certified under same dates, respectively, by the register and receiver at Marysville, California, and the president of the said Central Pacific Railroad Company, successor of the California and Oregon Railroad Company, has applied for a conveyance of the title to said lands, granted by the aforesaid acts of Congress, to the said Cali-

fornia and Oregon Railroad Company, its associates, successors, and assigns; the said lands being described as follows, to wit:

North of base line and west of Mount Diablo meridian.

TOWNSHIP SIXTEEN, RANGE TWO.

Lot numbered four of northwest quarter and east half of section three, containing three hundred and fifty-eight acres and ninety-four hundredths of an acre; southwest quarter of northwest quarter and northwest quarter of southwest quarter of section five, containing eighty acres; northwest quarter, northwest quarter of northeast quarter of southwest quarter, and lots numbered three and four of southwest quarter of section seven, containing three hundred and eighty acres and six hundredths of an acre; east half of section nine, containing three hundred and twenty acres; all of section fifteen, containing six hundred and forty acres; all of section nineteen, containing six hundred and twenty-eight acres and four-
204 teen hundredths of an acre; east half of northeast quarter of section twenty-one, containing eighty acres; northwest quarter of section twenty-three, containing one hundred and sixty acres; southwest quarter of northeast quarter, northwest quarter, and south half of section twenty-nine, containing five hundred and twenty acres; all of section thirty-one, containing six hundred and twenty-eight acres and six hundredths of an acre; northeast quarter of southwest quarter of section thirty-five, containing forty acres.

TOWNSHIP SIXTEEN, RANGE THREE.

All of section one, containing six hundred and forty acres; all of section three, containing six hundred and thirty-eight acres and forty hundredths of an acre; all of section eleven, containing six hundred and forty acres; northwest quarter of southeast quarter, east half of southeast quarter, southwest quarter and north half of section thirteen, containing six hundred acres; all of section fifteen, containing six hundred and forty acres; northeast quarter of southwest quarter, west half of southwest quarter, southeast quarter, and north half of section twenty-three, containing six hundred acres; all of section twenty-five, containing six hundred and forty acres; all of section twenty-seven, containing six hun-
205 dred and forty acres; all of section thirty-five, containing six hundred and forty acres.

TOWNSHIP SEVENTEEN, RANGE THREE.

Northwest quarter of section twenty-three, containing one hundred and sixty acres; all of section twenty-five, containng six hundred and forty acres; southwest quarter of section twenty-seven, containing one hundred and sixty acres; west half of section thirty-five, containing three hundred and twenty acres.

Now, know ye that the United States of America, in consideration of the premises and pursuant to the said acts of Congress, have given and granted and by these presents do give and grant unto the said Central

Pacific Railroad Company, successor as aforesaid, and to its successors all the tracts of land described in the foregoing.

To have and to hold the same, with the appurtenances, unto the said Central Pacific Railroad Company and to its successors and assigns, forever.

In testimony whereof I, Ulysses S. Grant, President of the United States, have caused these letters to be made patent and the seal of the General Land Office to be hereunto affixed.

Given under my hand, at the city of Washington this seventeenth
206 day of March, in the year of our Lord one thousand eight hundred and seventy-five, and of the Independence of the United States the ninety-ninth.

U. S. GRANT.

By the President.
[SEAL.] S. D. WILLIAMSON,
Secretary.

L. K. LIPPINCOTT,
Recorder of the General Land Office.

(Endorsed:) 1976. U. S. v. C. P. R. R. Co. Complainant's Exhibit B. Opened by consent of counsel and refiled August 13, 1885. L. S. B. Sawyer, clerk.

207 EXHIBIT C.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., June 12th, 1878.

I, J. A. Williamson, Commissioner of the General Land Office, do hereby certify that the annexed is a true and literal exemplification from the records of this office, of so much of letters patent of the United States, issued December 20th, 1875, to the Central Pacific Railroad Company (successor by consolidation to "The California and Oregon Railroad Company") as embraces lands within the limits of the reservation for the adjustment of the "Manuel Diaz" grant claim.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, the day and year first above written.

[SEAL.] J. A. WILLIAMSON,
Commissioner of the General Land Office.

The United States of America to all to whom these presents shall come, greeting:

Whereas, by the acts of Congress approved July 25, 1866, June 25, 1868, and April 10, 1869, "To aid in the construction of a railroad
208 and telegraph line from the Central Pacific Railroad in California to Portland in Oregon, authority is given to the "California and Oregon Railroad Company, its associates, successors, and assigns, a corporation existing under the laws of the State of California, to construct a railroad and telegraph line under certain conditions and stipulations as expressed in said acts under provision is made for granting to the said com-

pany every alternate section of public land not mineral, designated by odd numbers, to the amount of twenty alternate sections per mile (ten on each side) of said railroad line."

And whereas, it is further enacted in said acts, that when any of said alternate sections or part of sections shall be found to have been granted, sold, reserved, occupied by homestead settlers, pre-empted, or otherwise disposed of, other lands designated as aforesaid shall be selected by said company in lieu thereof, under direction of the Secretary of the Interior, in alternate sections designated by odd numbers as aforesaid nearest to and not more than ten miles beyond the limits of said first named alternate sections. And whereas, official statements bearing dates January 3, 1871, and January 29, 1874, from the Secretary of the Interior, have been filed in the General Land Office, showing that the commissioners appointed by the President under provisions of the fourth section of the first-
209 named act have reported to him that the said "California and Oregon Railroad and Telegraph Line, commencing at a point in the town of Roseville, in the county of Placer, State of California, thence through the city of Marysville to the ninety-seventh mile-post in said State, a distance of ninety-seven miles and six-tenths of a mile, have been constructed and fully completed and equipped in the manner prescribed by the acts relative thereto;"

And whereas, by articles of agreement entered into under the laws of the State of California between the said "California and Oregon Railroad Company and the Central Pacific Railroad Company, 'said companies were amalgamated and consolidated' under the name of the Central Pacific Railroad Company," upon the twentieth day of August, 1870, as s'own by a certified copy of the articles of consolidation filed in the General Land Office on the first day of March, 1872, by Henry Beard, attorney for said Central Pacific Railroad Company;

And whereas certain tracts of land have been selected by Benjamin B. Redding, the agent of the said Central Pacific Railroad Company, successor of the said California and Oregon Railroad Company, as shown by his original list of selections dated December 12, 1871, and certified under date of December 13, 1871, by the register and receiver at Marysville, California, and the President of the Central Pacific Railroad Com-
210 pany, successor of the California and Oregon Railroad Company, has applied for a conveyance of the title to said lands granted by the aforesaid acts of Congress to the said "California and Oregon Railroad Company," its associates, successors, and assigns, the said lands being described as follows, to wit: North of base line and west of Mount Diablo meridian, township seventeen, range two; northeast quarter of northwest quarter of section thirty-five, containing forty acres:

Now, know ye, that the United States of America, in consideration of the premises and pursuant to the said acts of Congress, have given and granted, and by these presents do give and grant, unto the said Central Pacific Railroad Company, successor as aforesaid, and to its successors, all the tracts of land described in the foregoing.

To have and to hold the same, with the appurtenances, unto the said Central Pacific Railroad Company "and to its successors and assigns forever."

In testimony whereof I, Ulysses S. Grant, President of the United

States, have caused these letters to be made patent and the seal of the General Land Office to be hereunto affixed.

Given under my hand at the city of Washington this twentieth
211 day of December, in the year of our Lord one thousand eigth hundred and seventy-five and of the Independence of the United States the one hundredth:

[L. S.] U. S. GRANT.

By the President:
By D. D. CONE,
Secretary.
L. K. LIPPINCOTT,
Recorder of the General Land Office.

(Endorsed:) 1976. U. S. v. C. P. R. R. Co. Complainant's Exhibit C. Opened by stipulation of counsel and refiled August 13, 1885. L. S. B. Sawyer, clerk.

212 EXHIBIT D.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., June 12th, 1878.

I, J. A. Williamson, Commissioner of the General Land Office, do hereby certify that the annexed is a true and literal exemplification of so much of the list of selections made December 12th, A. D. 1871, by the Central Pacific Railroad Company, successors by consolidation to "The California and Oregon Railroad Company," as embraces lands within the limits of the reservation for the adjustment of the "Manuel Diaz" grant claim.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington the day and year first above written.

[SEAL.] J. A. WILLIAMSON,
Commissioner of the General Land Office.

OFFICE OF THE CENTRAL PACIFIC RAILROAD COMPANY,
Sacramento, California, December 11th, 1871.

213 I, Edward H. Miller, jr., secretary of the Central Pacific Railroad Company (successor by consolidation to "The Central Pacific Railroad Company of California" and the "California and Oregon Railroad Company"), hereby certify that Benjamin B. Redding was appointed land agent of the said "Central Pacific Railroad Company," successors by consolidation to the said "California and Oregon Railroad Company," by the board of directors of said company at a regular meeting held on the twenty-second (22d) day of August, A. D. 1870, and that since that time he has been continuously and is now the land agent of the said company.

In testimony whereof I have hereunto set my hand and affixed the corporate seal of said company this 11th day of December, A. D. 1871.

[Seal of Co.]

EDWARD H. MILLER, JR.,
Secretary of the "Central Pacific Railroad Company."

[Revenue stamp. Five cents.]

214 *List of lands in the Marysville land district, California, selected by the "Central Pacific Railroad Company," successor by consolidation to "The California and Oregon Railroad Company."*

The undersigned, the duly authorized land agent of the Central Pacific Railroad Company (successor by consolidation to "The Central Pacific Railroad Company of California" and "The California and Oregon Railroad Company"), under and by virtue of the acts of Congress entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific Railroad, in California, to Portland, in Oregon, approved July 25th, 1866, and the act amendatory thereof, approved June 25th, 1868, and under and in pursuance of the rules and regulations prescribed by the Commissioner of the General Land Office, and contained in a circular dated January 24th, 1867, hereby makes and files the following list of selections of public land claimed by the said
215 "Central Pacific Railroad Company," successor to the said "The California and Oregon Railroad Company," as inuring to it, and to which it is entitled under and by virtue of the grant and provisions of the said acts of Congress and the location of the line of the route of the said railroad and telegraph of said "California and Oregon Railroad Company," being for a section of seventy-seven and $\frac{6}{10}$ miles of said road, commencing at a point in the town of Roseville, in the county of Placer, State of California, where said railroad and telegraph line connects with the Central Pacific Railroad, and terminating at or near the town of Chico, in the county of Butte, in said State, at the end of the seventy-seventh and $\frac{6}{10}$ mile, which said section of road and telegraph line has been duly accepted by the President of United States, as provided in the aforesaid acts of Congress.

The selections being particularly described as follows.

BENJAMIN B. REDDING,
Land Agent of the Central Pacific Railroad Company.

Part of section.	No. of section.	No. of town.	No. of range.	Area.
				Acres.
Lots 3 & 4 of NE. ¼	15	17 N.	2 W.	269.32
SE. ¼	15			
NE. ¼ of NW. ¼	35	17 N.	2 W.	40.00
E ½ of NE. ¼	35	17 N.	2 W.	184.56
Lots 2 & 3 of	35			

216 STATE OF CALIFORNIA,
County of Sacramento, ss:

I, Benjamin B. Redding, being duly sworn, depose and say: That I am the land agent of the "Central Pacific Railroad Company" (successor by consolidation to "The Central Pacific Railroad Company of California," and "The California and Oregon Railroad Company"); that the foregoing list of lands, which I hereby select, is a correct list of a portion of the public lands claimed by the said "Central Pacific Railroad Company," successor to the said "The California and Oregon Railroad Company," for which a grant of land was made by the acts of Congress, en-

titled "An act granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific Railroad, in California, to Portland, in Oregon, approved July 25th, 1866, and the act amendatory thereof, approved June 25th, 1868; that the said lands are vacant, unappropriated, and are not interdicted, mineral, nor reserved lands, and are of the character contemplated by the grant, lying within the limits of twenty (20) miles on each side of the line of route of said road, being for a
217 section of seventy-seven and $\frac{6}{10}$ miles of said road, commencing at a point in the town of Roseville, in the county of Placer, State of California, where said railroad and telegraph connects with the Central Pacific Railroad, and terminating at or near the town of Chico, in the county of Butte in said State, at the end of the seventy-seventh and $\frac{6}{10}$ miles.

BENJAMIN B. REDDING.

Subscribed and sworn to before me this twelfth day of December, A. D. 1871.

W. B. C. BROWN,
County Clerk.

[Seal of county court.]
[5-cent revenue stamp]

UNITED STATES LAND OFFICE,
Marysville, California, December 13th, 1871.

We hereby certify that we have carefully and critically examined the foregoing list of the lands claimed by the "Central Pacific Railroad Company," successor, by consolidation, to "The California and Oregon Railroad Company," under the grant to said California and Oregon Railroad Company by the acts of Congress, entitled "An act granting
218 lands to aid in the construction of a railroad and telegraph line from the Central Pacific Railroad, in California, to Portland, in Oregon," approved July 25th, 1866, and the act amendatory thereof, approved June 25th, 1868, and selected by Mr. Benjamin B. Redding, the duly authorized land agent of said "Central Pacific Railroad Company," successor, by consolidation, to the said "The California and Oregon Railroad Company," and we have tested the accuracy of said list by the plats and records of this office, and we find the same to be correct. And we further certify that the filing of said list is allowed and approved, and that the whole of said lands are surveyed public lands of the United States and within the limits of twenty (20) miles on each side; and that the same are not, nor is any part thereof returned and denominated as mineral lands or land, nor claimed as swamp land; neither are there any homesteads, pre-emptions, State, nor other valid claims to any portion of said lands on file or record in this office. We further certify that the foregoing list shows an assessment of the fees payable to us allowed by the act of Congress approved July 1st, 1864, and contemplated by
219 the instructions dated January 24th, 1867, and addressed by the Commissioner of the General Land Office to the registers and receivers of the United States land offices, and that the said Central Pacific Railroad Company, successors, by consolidation, to "The California

and Oregon Railroad Company," has paid to the undersigned, the receiver, the full sum of two thousand four hundred and forty-nine $\frac{50}{100}$ ($2,449.$\frac{50}{100}$) dollars, in full payment and discharge of said fees.

L. B. AYER,
Register of United States Land Office, Marysville, California.
E. TEEGARDEN,
Receiver of United States Land Office, Marysville, California.

(Endorsed:) 1976. U. S. v. C. P. R. R. Co. Complainant's Exhibit D. Opened by stipulation of counsel and re-filed August 13, 1885. L. S. B. Sawyer, clerk.

220 COMPLAINANTS' EXHIBIT E.

No. 45. A. P. E.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., June 12th, 1878.

I, J. A. Williamson, Commissioner of the General Land Office, do hereby certify that the annexed is a true and literal exemplification of so much of the list of indemnity selections made December 30th, 1871, by the Central Pacific Railroad Company, successor by consolidation to "The California and Oregon Railroad Company," as embraces lands within the limits of the reservation for the adjustment of the "Manuel Diaz" grant claim.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, the day and year first above written.

[SEAL.]

J. A. WILLIAMSON,
Commissioner of the General Land Office.

221 OFFICE OF CENTRAL PACIFIC RAILROAD COMPANY,
Sacramento, California, December 29th, 1871.

I, Edward H. Miller, jr., secretary of the "Central Pacific Railroad Company" (successor by consolidation to "The Central Pacific Railroad Company of California" and "The California and Oregon Railroad Company") hereby certify that Benjamin B. Redding was appointed land agent of the "Central Pacific Railroad Company" successor by consolidation to the said "California and Oregon Railroad Company" by the board of directors of said company, at a regular meeting held on the twenty-second (22d) day of August, A. D. 1870, and that since that time he has been continuously, and is now, the land agent of the said company.

In testimony whereof I have hereunto set my hand and affixed the corporate seal of said company this 29th day of December, A. D. 1871.

[Seal of co.]

EDWARD H. MILLER, Jr.,
Secretary of the Central Pacific Railroad Company.

222 *List of lands in the Marysville land district, California, selected by the "Central Pacific Railroad Company," successor by consolidation to "The California and Oregon Railroad Company."*

The undersigned, the duly authorized land agent of the "Central Pacific Railroad Company" (successor by consolidation to the Central Pacific Railroad Company of California," and "the California and Oregon Railroad Company") under and by virtue of the acts of Congress entitled, "An act granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific Railroad, in California, to Portland, in Oregon," approved July 25th, 1866, and the act amendatory thereof, approved June 25th, 1868, and under and in pursuance of the rules and regulations prescribed by the Commissioner of the General Land Office, and contained in a circular dated January 24th, 1867, hereby makes and files the following list of selections of public land claimed by the said "Central Pacific Railroad Company," successor to the said "The
223 California and Oregon Railroad Company," as inuring to it and to which it is entitled, under and by virtue of the grant and provisions of the said acts of Congress, and the location of the line of route of the said railroad and telegraph of said "California and Oregon Railroad Company," being for a section of seventy-seven and $\frac{6}{10}$ miles of said road commencing at a point in the town of Roseville, in the county of Placer, State of California, where said railroad and telegraph line connects with the Central Pacific Railroad, and terminating at or near the town of Chico, in the county of Butte, in said State, at the end of the seventy-seventh and $\frac{6}{10}$ mile, which said section of road and telegraph has been duly accepted by the President of the United States, as provided in the aforesaid acts of Congress. The selections being particularly described as follows, and being within the exterior ten (10) mile limits allowed for indemnity, on each side of the line of route of said railroad.

BENJAMIN B. REDDING,
Land Agent of the Central Pacific Railroad Company.

224 Parts of sections.	Sec.	Tp.	R.	Areas.
				Acres.
* * * * * * *				
All of	7	17 N.	2 W.	652.40
SW. ¼, and lots 1 & 2 of NW. ¼	15	17 N.	2 W.	268.44
S. ½, and lots 1, 2, 3, and 4	17	17 N.	2 W.	533.24
All of	19	17 N.	2 W.	645.98
E. ½ and SW. ¼	27			
E. ½ of NW. ¼	27	17 N.	2 W.	560.00
All of	29	17 N.	2 W.	640.00
All of	31	17 N.	2 W.	641.60
N. ½ of NW. ¼, and SW. ¼ of NW. ¼	33			
NW. ¼ of SW. ¼, and S. ½ of SW. ¼	33	17 N.	2 W.	320.00
S. ½ of SE. ¼	33			
NW. ¼ of NW. ¼, and lot 1 of SW. ¼	35	17 N.	2 W.	92.28
All of	1	17 N.	3 W.	640.00
All of	3	17 N.	3 W.	639.78
S. ½	5	17 N.	3 W.	320.00
All of	7	17 N.	3 W.	636.58
W. ½	9			
N. ½ of NE. ¼, and S. ½ of SE. ¼	9	17 N.	3 W.	480.00
All of	11	17 N.	3 W.	640.00
All of	13	17 N.	3 W.	640.00
All of	15	17 N.	3 W.	640.00
All of	17	17 N.	3 W.	640.00

*NE. ¼ of NW. ¼ susp'd; N. ½ of NW. ¼ approved as swamp April 20, 1870.

225 STATE OF CALIFORNIA,
County of Sacramento, ss:

I, Benjamin B. Redding, being duly sworn, depose and say: That I am the land agent of the "Central Pacific Railroad Company" (successor by consolidation to "The Central Pacific Railroad Company of California" and "The California and Oregon Railroad Company)"; that the foregoing list of lands, which I hereby select, is a correct list of a portion of the public lands claimed by the said "Central Pacific Railroad Company," successor to the said "The California and Oregon Railroad Company," for which a grant of land was made by the acts of Congress entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific Railroad, in California, to Portland, in Oregon," approved July 25th, 1866, and the act amendatory thereof, approved June 25th, 1868; that the said lands are vacant, unappropriated, and are not interdicted, mineral, nor reserved lands, and are of the character contemplated by the grant lying within the limits of the exterior
226 ten (10) miles indemnity limits on each side of the line of route of said road, being for a section of seventy-seven and $\frac{6}{10}$ miles of said road, commencing at a point in the town of Roseville, in the county of Placer, State of California, where said railroad and telegraph line connects with the Central Pacific Railroad, and terminating at or near the town of Chico, in the county of Butte, in said State, at the end of the seventy-seventh and $\frac{6}{10}$ mile.

BENJAMIN B. REDDING.

Subscribed and sworn to before me this 30th day of December, A. D. 1871.

[Seal of county court.]

W. B. C. BROWN,
County Clerk.

UNITED STATES LAND OFFICE,
Marysville, California, January 1st, 1872.

We hereby certify that we have carefully and critically examined the foregoing list of the lands claimed by the "Central Pacific Railroad Company," successor, by consolidation, to "The California and Oregon
227 Railroad Company," under the grant to said "California and Oregon Railroad Company" by the acts of Congress, entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific Railroad in California to Portland, in Oregon," approved July 25th, 1866, and the act amendatory thereof, approved June 25th, 1868, and selected by Mr. Benjamin B. Redding, the duly authorized land agent of said "Central Pacific Railroad Company," successor, by consolidation, to the said "The California Oregon Railroad Company," and we have tested the accuracy of said list by the plants and records of this office and we find the same to be correct. And we further certify that the filing of said list is allowed and approved, and that the whole of said lands are surveyed public lands of the United States, and within the limits of the exterior ten (10) miles on each side; and that the same are not nor is there any part thereof returned and denominated as mineral lands or land, nor claimed as swamp land; neither are there any homesteads, pre-emptions, State, nor other valid claim to any
228 portion of said lands on file or record in this office.

We further certify that the foregoing list shows an assessment of the fees payable to us, allowed by the act of Congress, approved July 1st, 1864, and contemplated by the instructions, dated January 24th, 1867, and addressed by the Commissioner of the General Land Office to the registers and receivers of United States land offices, and that the said "Central Pacific Railroad Company," successor, by consolidation, to "The California and Oregon Railroad Company," has paid to the undersigned, the receiver, the full sum of eight hundred and twenty-nine $\frac{50}{100}$ ($829.50) dollars, in full payment and discharge of said fees.

L. B. AYER,
Register of United States Land Office, Marysville, California.
E. TEEGARDEN,
Receiver of United States Land Office, Marysville, California.

229 (Endorsed:) 1976. U. S. v. C. P. R. R. Co. Complainant's Exhibit E. Opened by stipulation of counsel and refiled August 13, 1885. L. S. B. Sawyer, clerk.

230 EXHIBIT F.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., June 12th, 1878.

I, J. A. Williamson, Commissioner of the General Land Office, do hereby certify that the annexed is a true and literal exemplification of so much of the list of indemnity selections, made October 30, 1874, by the Central Pacific Railroad Company (successor, by consolidation, of the "California and Oregon Railroad Company") as embraces lands within the limits of the reservation for the adjustment of the "Manuel Diaz" grant claim.

In testimony whereof I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, the day and year first above written.

[SEAL.] J. A. WILLIAMSON,
Commissioner of the General Land Office.

OFFICE OF THE CENTRAL PACIFIC RAILROAD COMPANY,
San Francisco, California, October 30th, 1874.

I, Edward H. Miller, jr., secretary of the "Central Pacific Railroad Company" (successor, by consolidation, to the "Central Pacific
231 Railroad Company of California" and the "California and Oregon Railroad Company"), do hereby certify that Benjamin B. Redding was appointed land agent of the said "Central Pacific Railroad Company" (successor, by consolidation, to the said "California and Oregon Railroad Company") by the board of directors of said company at a regular meeting held on the twenty-second (22d) day of August, A. D. 1870, and that since that time he has been continuously, and is now, the land agent of the said company.

In testimony whereof I have hereunto set my hand and affixed the corporate seal of said company this 30th day of October, A. D. 1874.

EDWARD J. MILLER, JR.,
[Seal of company.]
Secretary of the "Central Pacific Railroad Company."

List of lands in the Marysville land district, California, selected by the "Central Pacific Railroad Company" (successor, by consolidation, to "The California and Oregon Railroad Company").

The undersigned, the duly authorized land agent of the "Central Pacific Railroad Company" (successors, by consolidation, to "The Cen-
232 tral Pacific Railroad Company of California" and "The California and Oregon Railroad Company"), under and by virtue of the acts of Congress, entitled "An act granting lands to and in the construction of a railroad and telegraph line from the Central Pacific Railroad, in California, to Portland, in Oregon," approved July 25th, 1866, and the act amendatory thereof, approved June 25th, 1868, and under and in pursuance of the rules and regulations prescribed by the Commissioner of the General Land Office, and contained in a circular dated January 24th, 1867, hereby makes and files the following list of selections of public land claimed by the said "Central Pacific Railroad Company" (successor to the said "The California and Oregon Railroad Company"), as inuring to it, and to which it is entitled, under and by virtue of the grant and provisions of the said acts of Congress, and the location of the line of route of the said railroad and telegraph of said "California and Oregon Railroad Company," being for a section of ninety-seven and $\frac{6}{10}$th miles of said road, commencing at a point in town *town* of Roseville, in the county of Placer, State of California, where said railroad and telegraph line connects with the "Central Pacific Railroad," and terminating at a point twenty (20) miles beyond the town of Chico, in the county of Butte, in said State, at the end of the ninety-seventh and $\frac{6}{10}$ mile, which said
233 section of road and telegraph line has been duly accepted by the President of the United States, as provided in the aforesaid acts of Congress. The selections being particularly described as follows, and being within the exterior ten (10) mile limits allowed for indemnity on each side of the line of route of said railroad:—

Part of section.	No. of section.	No. of town.	No. of range.	Area.
				Acres.
Frac'l E. ½	3	16 N.	2 W.	319.61
Lot 4 of NW. ¼	3	16 N.	2 W.	39.33
SW. ¼ of NW. ¼	5	16 N.	2 W.	40.00
NW. of SW. ¼	"	"	"	40.00
Frac'l NW. ¼	7	16 N.	2 W.	154.05
NW. ¼ of NE. ¼	"	"	"	40.00
NE. ¼ of SW. ¼	"	"	"	40.00
Lot 3 of SW. ¼	"	"	"	37.01
Lot 4 of SW. ¼	"	"	"	37.00
E. ½	9	16 N.	2 W.	320.00
All of	15	16 N.	2 W.	640.00
All of frac'l	19	16 N.	2 W.	628.14
E. ½ of NE. ¼	21	16 N.	2 W.	80.00
NW. ¼	23	16 N.	2 W.	160.00
S. ½	29	16 N.	2 W.	320.00
NW. ¼	"	"	"	160.00
SW. ¼ of NE. ¼	"	"	"	40.00
All of fractional	31	16 N.	2 W.	628.06
* * * * * * * * * * * * * * *				
NE. ¼ of SW. ¼	35	16 N.	2 W.	40.00
234 All of	1	16 N.	3 W.	640.00
All of frac'l	3	16 N.	3 W.	628.40
All of	11	16 N.	3 W.	640.00
N. ½	13	16 N.	3 W.	320.00
SW. ¼	13	16 N.	3 W.	160.00
E. ½ of SE. ¼	"	"	"	80.00
NW. ¼ of SE. ¼	"	"	"	40.00

Part of section.	No. of section.	No. of town.	No. of range.	Area.
				Acres.
All of	15	16 N.	3 W.	640.00
N. ½	23	16 N.	3 W.	320.00
SE. ¼	"	" "	" "	160.00
W. ½ of SW. ¼	"	" "	" "	80.00
NE. ¼ of SW. ¼	"	" "	" "	40.00
All of	25	16 N.	3 W.	640.00
All of	27	16 N.	3 W.	640.00
All of	35	16 N.	3 W.	640.00
NW. ¼	23	17 N.	3 W.	160.00
All of	25	17 N.	3 W.	640.00
SW. ¼	27	17 N.	3 W.	160.00
W. ½	35	17 N.	3 W.	320.00

235 STATE OF CALIFORNIA,
City and County of San Francisco, ss:

I, Benjamin B. Redding, being duly sworn, deposes and say that I am the land agent of the Central Pacific Company (successor by consolidation to the "Central Pacific Railroad Company of California" and "The California and Oregon Railroad Company;" that the foregoing list of lands, which I hereby select, is a correct list of a portion of the public lands claimed by the said "Central Pacific Railroad," successor to the said "The California and Oregon Railroad Company," for which a grant of land was made by the acts of Congress entitled, "An act granting lands to aid in the construction of a railroad and telegraph line from the "Central Pacific Railroad, in California, to Portland, in Oregon," approved July 25th, 1866, and the act amendatory thereof, approved June 25th, 1868; that the said lands are vacant, unappropriated, and are not interdicted mineral nor reserved lands, and are of the character contemplated by the grant, lying within the limits of the exterior ten (10) miles indemnity limits on each side of the line of route of said road, being for a section of ninety-seven and $\frac{6}{10}$th miles of said road, commencing at a point in the town of Roseville, in the county of Placer, State of California, where said railroad and telegraph line connects with the Central Pacific Railroad and terminating at a point twenty (20) miles beyond the town of Chico, in the county of Butte, in said State, at the end of the ninety-seventh and $\frac{6}{10}$th mile.

236

BENJAMIN B. REDDING.

Subscribed and sworn to before me this 30th day of October, A. D. 1874.

[SEAL.] CHARLES J. TORBERT,
Notary Public in and for the City and County of San Francisco, State of California.

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

I, William Harney, county clerk of the city and county of San Francisco, and ex officio clerk of the county court, probate court, municipal criminal court, and of the third, fourth, twelfth, fifteenth, and nineteenth judicial district courts of the State of California, in and for said city and county (all of which courts are courts of record, having seals), do hereby certify that Charles J. Torbert, whose name is subscribed to the annexed

affidavit, was, at the time of signing the , a notary public in and for said city and county, duly commissioned and qualified, and authorized by law, to take such affidavit, and full faith and credit 're due to all his official acts as such.

And I do further certify that I am well acquainted with the
237 handwriting of the said Charles J. Torbert, and verily believe that the signature to the said annexed affidavit is genuine.

In witness whereof I have hereunto set my hand and affixed the seal of the said district court of the 12th judicial district of the State of California, in and for the city and county of San Francisco, at my office in said city and county, this eighteenth day of December, A. D. 1874.

[SEAL.] WILLIAM HARNEY,

County Clerk of the City and County of San Francisco, and ex officio Clerk of the District Court of 12th Judicial District of the State of California, in and for the City and County of San Francisco.

UNITED STATES LAND OFFICE,
Marysville, California, A. D. 1874.

We hereby certify that we have carefully and critically examined the foregoing list of the lands claimed by the "Central Pacific Railroad Company," successor by consolidation to the "California and Oregon Railroad Company," under the grant to said "California and Oregon Railroad Company," by the acts of Congress entitled "An act granting
238 lands to aid in the construction of a railroad and telegraph line from the Central Pacific Railroad in California to Portland in Oregon," approved July 25th, 1866, and the act amendatory thereof, approved June 25th, 1868, and selected by Benjamin B Redding, the duly authorized land agent of said Central Pacific Railroad Company, successor by consolidation to the said "The California and Oregon Railroad Company," and we have tested the accuracy of said list by the plats and records of this office, and we find the same to be correct; and we further certify that the filing of said list is allowed and approved, and that the whole of said lands are surveyed public lands of the United States, and within the limits of the exterior ten (10) miles on each side; and that the same are not, nor is there any part thereof, returned and denominated as mineral lands or land, nor claimed as swamp land, neither are there any homesteads, pre-emptions, State, nor other valid claim to any portion of said lands on file or record in this office. We further certify that the foregoing list shows an assessment of the fees payable to us, allowed by the act of Congress, approved July 1st, 1864, and contemplated by the instructions, dated January 24th, 1867, and addressed by the Commissioner of the General Land Office to the register and receiver of United States
239 land offices, and that the said "Central Pacific Railroad Company," successor by consolidation to "The California and Oregon Railroad Company," has paid to the undersigned, the receiver, the full sum of twelve hundred and five ($1,205) dollars, in full payment and discharge of said fees.

L. B. AYER,
Register of United States Land Office, Marysville, California.
ELI TEEGARDEN,
Receiver of United States Land Office, Marysville, California.

(Endorsed:) 1976. U. S. v. C. P. R. R. Co. Complainant's Exhibit F. Opened by stipulation of counsel and refiled August 13, 1885. L. S. B. Sawyer, clerk.

240 EXHIBIT G.

To the honorable commissioner to settle private land claims in California:

The petitioner, Manuel Diaz, respectfully shows: That on the 18th day of May, A. D. 1846, Pio Pico, governor of California, by virtue of authority in him vested, granted to this petitioner a tract of land in the Sacramento Valley, with the boundaries described in the grant, containing eleven square leagues, situated in the present county of Colusa, a copy of which original grant is submitted herewith, marked "A," with a translation, marked "B." That he is in the quiet and undisputed possession of the said tract of land, and knows of no conflicting claim.

That the said land has not been surveyed by the Surveyor-General of the United States, but that it is definite in quantity and its boundaries sufficiently described in the grant itself; that he relies for confirmation of title upon the original grant, a copy of which is submitted herewith; upon the records and minutes relating thereto, in the archives now in charge of the Surveyor-General, and upon such other and further proofs as he may be advised are necessary.

Wherefore he prays the commissioner to confirm to him the aforesaid tract of land.

241 By his att'ys,

HALLECK, PEACHY & BILLINGS.

No. 311. Land commissioner. Sacramento Valley. Petition of Manuel Diaz. Gov. Pico, 1846. Colusa County. Filed in office August 31st, 1852. Geo. Fisher, sec'y. Recorded in record of petitions, vol. 1, page 205. Geo. Fisher, sec'y.

Pio Pico, constitutional governor of the Department of California.

[Gov't seal.]

Whereas Mr. Manuel Diaz has solicited for his personal benefit and that of his family a vacant land in the Sacramento Valley adjoining (colindando) to the north with Mr. Larkin's farm, to the south with

242 the plains also vacant, to the east with lands already solicited, and to the west with the mountains, the requisite proceedings and investigations having been previously taken and made in conformity with the law of the 18th of August, 1824, and regulation of the 21st of November, 1828, I have, in virtue of the powers conferred on me in the name of the Mexican nation, granted unto him the said land outside of the said neighbors' boundaries, declaring to him the ownership thereof by these present letters subject to the most excellent departmental assembly's approbation, and to the—

1st. He may enclose it without prejudice to the crossings, roads, and privileges; he shall enjoy it freely and exclusively, destining it to the use and cultivation which may suit him best.

2nd. When the property is confirmed to him he shall solicit the respect-

ive magistrate to give him judicial possession, in virtue of this title, by whom the boundaries shall be designated with the necessary land marks.

3rd. The land whereof donation is made is of the extent of eleven square leagues (once citios de ganado mayor) if there be that number outside of the other properties, the boundaries of which shall be re-
243 spected, and if there be not that number the party grantee shall be satisfied with the result.

The magistrate who may give the possession shall cause it to be measured according to ordinance, and the surplus which may result shall remain to the nation for the uses which may suit it.

4th. The grantee shall, on the first opportunity, present a plot or topographical plan of the land which is granted to him by the present title.

I consequently command that this present title, being held to be firm and valid, be recorded in the corresponding book and delivered to the party interested for his safety and other.

Given in the city of Los Angeles, on this common paper for want of stamped, the eighteenth day of May, eighteen hundred and forty-six.

(Signed) PIO PICO.

(Signed:) José Matias Moreno, secretary ad interim. A record of this superior title has been made in the corresponding book. (Signed:) Moreno.

(Endorsed:) No. 311. B. Sacramento Valley. Translation of title. Manuel Diaz. Filed in office August 31st, 1852. Geo. Fisher,
244 sec. Recorded in record of evidence, vol. 15, page 474. N. 311. Claim of Manuel Diaz to rancho on the Reo Sacramento. Feb. 3rd.

SAN FRANCISCO, *Feb.* 3, 1853.

On this day, before Comm'r Hiland Hall, came Wm. E. P. Hartwell, a witness in behalf of the claimant, claimant Manuel Diaz, petition No. 311, and was duly sworn, his evidence being given in English.

The U. S. associate law agent was present.

In answer to questions by claimant's counsel, the witness testified as follows:

My name is Jose Marin; my age is —— years; I reside in Santa Barbara County, and have lived in California —— years. I know the handwriting of Pio Pico and Jose Matias Moreno; their signatures to the paper before me marked H. H., No. 1, are their genuine official signatures.

W. E. P. HARTWELL.

Sworn and subscribed before me.

HILAND HALL,
Comm'r.

(Endorsed:) No. 311. Manuel Diaz. Sacramento Valley, Colusa County. Depo. of Wm. E. P. Hartwell, taken before Hiland Hall, comm'r. Filed in office Feb'y 3rd, 1853. Geo. Fisher, sec. Recorded in Ev. B., vol. 2, p. 134, Ex. F and G. Geo. Fisher, sec.

245 OFFICE OF THE BOARD OF COMMISSIONERS, &C., &C.

This day, before Com'r Alpheus Felch, came Henrique Cambuston, a witness in behalf of claimant, Manuel Diaz, No. 311, who, after being duly sworn, deposed as follows:

Questions by Mr. HALLECK, attorney for the claimant:

1st. Question. What are your name, age, and place of residence?

Answer. My name is Henrique Cambuston; my age is thirty-six years, and I reside in the county of Monterey, in California.

2nd. Question. Do you know the rancho claimed by Manuel Diaz, in the Sacramento Valley? If yea, state what you know of its occupation and improvement.

Answer. In the month of June, 1846, I went to the place to survey the land, but, in consequence of the revolution under the Bear Flag, I was prevented from making the survey, but I made a sketch (Deseño) of it from looking at the land. While I was there at that time I saw Manuel Diaz building a small wooden house (palos parados) on the land, with the assistance of one man and two or three Indians. He had a corral already built, and had some cows and calves and some work horses there.

246 He was about finishing the fence around a lot of ground, a part of the land for cultivation. I remained at the place four or five days, and then left, and have never been there since.

3rd. Question. Can you describe where the land is situated?

Answer. It is situated on the west bank of the Sacramento River. I believe it is in the present county of Colusa, and about three leagues from the present town of Colusa. It is to the west of the Butts, and about five or six leagues from them. I understood at the time I was there that it bordered on the rancho of Jimino. I did not know this, but only understood so.

Questions by Mr. GREENHOW, associate law agent:

1st. Question. Was the house which you saw on the place such as were used for residences in California at that time?

Answer. It was not the kind of houses which were built at that time in California for residences, but it was of the kind which were found on many ranchos in which people could and used to live at that time.

Questions by Mr. HALLECK:

1st. Question. Was it not such a house as was usually built on new ranchos in California at the beginning of the settlement of rancho?

247 Answer. I have seen such houses built on some of the new ranchos at the beginning. On others they commenced by building adobe houses. The house was built of sticks or poles stuck into the ground and chicked with mud between the polls, and was thatched with tule. The roof was not quite finished when I was there.

H. CAMBUSTON.

This testimony was given in the Spanish language, Mr. Fisher, secretary of the board, acting as interpreter.

Subscribed and sworn to before me this 28th day of October, A. D. 1853.

ALPHEUS FELCH,
Commissioner.

(Endorsement:) No. 311. Manuel Diaz. Sacramento Valley. Depo. of Henrique Cambuston, taken before Com'r Alpheus Felch. Filed in office Oct. 28th, 1853. Geo. Fisher, sec'y. Record in Ev. B., vol. 3, p. 314, Ex. F & G. Geo. Fisher, sec'y.

248 MANUEL DIAZ *vs.* THE UNITED STATES. } No. 311.

In this case, on hearing the proofs and allegations, it is adjudged by the commission that the claim of the petitioner is not valid, and it is therefore decreed that his application for a confirmation of the same be denied.

ALPHEUS FELCH,
R. AUG. THOMPSON,
S. B. FARWELL,
Commissioners.

No. 311. Manuel Diaz. Sacramento Valley. Decree. Filed in office Oct. 31st, 1854. Geo. Fisher, sec'y. Recorded in Record of Decisions vol. 2, page 322. Geo. Fisher, sec'y.

249 MANUEL DIAZ *vs.* THE UNITED STATES. } No. 311.

In this claim the petitioner has offered as the only evidence of his title a grant purporting to be made by Gov. Pio Pico, on the 18th day of May, 1846. There is no evidence of any approval by the departmental assembly, nor is anything introduced to show that the customary preliminary enquiries and investigations were had prior to the issuing of the grant.

This belongs to a class of cases which have been heretofore alluded to as founded upon grants for large districts of country, made in the latter part of the spring and begin'ing of the summer of 1846, about the time of the breaking out of what was known as the "Bear Flag war," and but a short time before the occupation of California by the Americans. The precipitancy with which these grants were made, the negligent and superficial manner in which the preliminary examinations were made, when made at all, and the great disproportion between the quantity
250 of land granted and the means of the grantee to stock and occupy it, are well calculated to cast suspicion upon them and to raise a presumption that they were made in bad faith and in anticipation of the later event.

These circumstances would induce the commission to subject them to a much more rigid scrutiny and stricter rules of evidence than in cases where the good faith of the transaction was evidenced by a more formal compliance with the requirements of the colonization laws by the governor, and a corresponding performance of the conditions of the grant on the part of the grantee.

The present claim, however, aside from these considerations, could not be confirmed by the commission consistently with the rules which have governed them in other cases.

No juridical measurement was had by which, according to the 2nd article of the grant, the boundaries were to be designated and established, and the description mentioned in the grant is too vague and indefinite for that purpose.

This defect in the testimony is not supplied by any extraneous evidence which would enable the board to describe the land in a decree with sufficient certainty to locate and indentify the particular tract
251 intended to be granted. A rude topographical sketch, purporting to represent a portion of the country bordering on the Sacramento River, is attached to the original grant by a wafer, on which a number of lines are drawn apparently intended to delineate the boundaries of lands granted to various individuals, and among them one is marked with the name of Manuel Diaz; but there is no evidence to connect this map with the grant or to show that it is the one which the grantee was required to present by the 4th article of his title.

In addition to these reasons the grantee has failed to show such a compliance with the conditions of the grant imposed by the colonization laws of Mexico as would entitle him in equity to confirmation of the same. The claim must therefore be rejected.

(Endorsement:) No. 311. Manuel Diaz, Sacramento Valley. Opinion of the board, delivered by Com'r R. Aug. Thompson. Fi ed in office Oct. 31st, 1854. Geo. Fisher, Sec'y. Recorded in record of decision vol. 2, page 321. Geo. Fisher, Sec'y.

252 [Vignette.]

OFFICE OF THE SURVEYOR-GENERAL
OF THE UNITED STATES FOR CALIFORNIA.

I, J. W. Ames, surveyor-general of the United States for the State of California, do hereby certify that the preceding, and hereunto annexed, is a full, true, and correct copy of a certain instruments of writing, now of record and on file in this office and in my custody; that I have carefully compared the same with said originals, and that the same is a correct transcript therefrom and of the whole of such originals.

In testimony whereof I have hereunto signed my name officially, and caused my seal of office to be affixed, at the city of San Francisco, this 23d day of January, 1878.

[SEAL.]

J. W. AMES,
U. S. Surveyor-General for California.

(Endorsed:) 1976. U. S. v. C. P. R. R. Co. Complainant's Exhibit G. Opened by stipulation of counsel, and re-filed August 13, 1885. L. S. B. Sawyer, clerk.

253 (EXHIBIT I.)

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE.
June 12th, 1878.

I, J. A. Williamson, Commissioner of the General Land Office, do hereby certify that the annexed is a true and literal exemplification of letter dated March 3, 1858, from the surveyor-general of California, now in the files of this office.

In testimony whereof I have subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.]

J. A. WILLIAMSON,
Commissioner of General Land Office.

U. S. SURVEYOR-GENERAL'S OFFICE,
San Francisco, Cala., March 3d, 1858.

SIR: From the final survey of several ranchos and from other reliable sources, I am induced to believe that the following fractional townships that were returned to the Department by my predecessor are more or less covered by "private grants," to wit: T. 12 N., R. 1 E.; T. 12 N., R. 2 E.; T. 13 N., R. 1 E.; T. 13 N., R. 2 E.; T. 14 N., R. 1 E.; T. 14 N., R. 2 E., Mt. Diablo meridian.

254 As these townships are among those that are advertised for sale on the 17th day of May next, I improve the first moment after ascertaining the fact to communicate the same to the Department, that they may be withholden from sale.

As soon as the ranchos interfering with them are survey finally, corrected plats will be forwarded to the Department.

Very respectfully, your ob't serv't,

J. W. MANDEVILLE,
U. S. Surv.-Gen'l, Cal.

Hon. THOS. A. HENDRICKS,
Com'r Gen'l Land Office, Washington, D. C.

(Endorsed:) 1976. U. S. v. C. P. R. R. Co. Complainant's Exhibit I. Opened by stipulation of counsel and re-filed August 13, 1885. L. S. B. Sawyer, clerk.

255 EXHIBIT K.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
June 12th, 1878.

I, J. A. Williamson, Commissioner of the General Land Office, do hereby certify that the annexed is a true and literal exemplification of letter dated March 19th, 1858, from the surveyor-general of California, now in the files of this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington, on the day and year above written.

[SEAL.]

J. A. WILLIAMSON,
Commissioner of General Land Office.

U. S. SURVEYOR-GENERAL'S OFFICE,
San Francisco, California, March 19th, 1858.

SIR: I find from examination, having had my attention called to the matter by the attornies in the case, that there is what purports to be a grant for eleven leagues of land adjoining and west of the
256 "Jimeno" grant, on the Sacramento River. This claim was rejected by the board of land commissioners, and the greater por-

tion of the land which would be embraced within the boundaries was subdivided by my predecessor. Should it, however, be finally confirmed by the court of last resort, its location would take portions of T's 16 and 17 N., R's 3 and 4 W., Mount Diablo meridian. As these townships are advertised for sale at Marysville on the 17th of May next, I make this statement, that the Department may take such action in the premises as may seem proper and expedient.

Very respectfully, your ob't serv't,

J. W. MANDEVILLE,
U. S. Surv. Gen'l, Cal.

Hon. THOS. A. HENDRICKS,
Com'r Gen'l Land Office, Washington, D. C.

(Endorsed:) 1976. U. S. v. C. P. R. R. Co. Complainant's Exhibit K. Opened by stipulation of counsel, and refiled August 13, 1885. L. S. B. Sawyer, clerk.

257 EXHIBIT L.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
June 12th, 1878.

I, J. A. Williamson, Commissioner of the General Land Office, do hereby cetify that the annexed is a true and literal exemplification of letter of April 2d, 1858, to the Surveyor-General of California, as the same is of record in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.]

J. A. WILLIAMSON,
Commissioner of General Land Office.

GENERAL LAND OFFICE,
April 2d, 1858.

SIR: I have received your letter of 3d ult., respecting certain townships which you believe to be partically covered by private claims, and which you suggest should be withdrawn from sale.

258 I enclose a copy of my letter of present date to the register and receiver at Marysville on the subject. Any information on the files of your office which it is proper should be in possession of those officers in connection with the matter you will please forward to them in authentic form and with all possible dispatch.

Very respectfully, your ob't servant,

THOS. A. HENDRICKS,
Commissioner.

J. W. MANDVILLE,
U. S. Surveyor-General, San Francisco, Cal.

(Endorsed:) 1976. U. S. v. C. P. R. R. Co. Complainant's Exhibit L. Opened by stipulation of counsel and refiled August 13, 1885. L. S. B. Sawyer, clerk.

259 EXHIBIT M.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
June 12th, 1878.

I, J. A. Williamson, Commissioner of the General Land Office, do hereby certify that the annexed is a true and literal exemplification, from the records of this office, of letter dated April 2, 1858, to the register and receiver, U. S. land office, Marysville, California.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

J. A. WILLIAMSON,
Commissioner of General Land Office.

GENERAL LAND OFFICE,
April 2, 1858.

REGISTER & RECEIVER,
Marysville, California:

GENTLEMEN: I enclose a copy of a letter dated 3d March, 1858, from the surveyor-general of California, stating his belief that townships
260 12, 13, and 14, of ranges 1 and 2, east (Mount Diablo meridian), and which are proclaimed for sale at Marysville, on the 17th May next, are more or less covered by private grants, and should therefor be withheld from sale.

If upon investigation of the matter it shall be shown to your satisfaction that these townships or any portions of them, or of any of them, are actually covered by private claims, finally confirmed, or still in suit, you will be justified in withholding from sale or entry such portions of any or all of said townships. I enclose also a copy of my letter of this date to the sur.-gen'l, who will be furnished with a copy of this.

Very respectfully, your ob't servant,

THOS. A. HENDRICKS,
Commissioner.

(Endorsed:) 1976. U. S. v. C. P. R. R. Co. Complainant's Exhibit M. Opened by stipulation of counsel and refiled August 13, 1885. L. S. B. Sawyer, clerk.

261 EXHIBIT N.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
June 12th, 1878.

I, J. A. Williamson, Commissioner of the General Land Office, do hereby certify that the annexed is a true and literal exemplification, from the records of this office, of letter dated April 19, 1858, to the surveyor-general of California.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.]

J. A. WILLIAMSON,
Commissioner of General Land Office.

GENERAL LAND OFFICE,
April 19th, 1858.

J. W. MANDEVILLE, Esq.,
U. S. Surveyor-General, San Francisco, Cal.:

SIR: I have received your communication of 19th ult., respecting certain lands situated in townships 16 and 17 N., ranges 3 and 4 W.
262 (Mt. Diablo), represented to be covered by private claims, now before the courts for confirmation.

The course proper to be pursued in this case is pointed out in my letter to you of 2d inst., and in the instructions from this office to register and receiver of same date, of which a copy was sent you.

A copy of this will be forwarded under present date to the R. and R. at Marysville.

Very respectfully, your obdt. servt.,

THOS. A. HENDRICKS,
Commissioner.

(Endorsed:) 1976. U. S. v. C. P. R. R. Co. Complainant's Exhibit N. Opened and refiled by stipulation of counsel August 13, 1885. L. S. B. Sawyer, clerk.

263 EXHIBIT O.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
June 12th, 1878.

I, J. A. Williamson, Commissioner of the General Land Office, do hereby certify that the annexed is a true and literal exemplification, from the records of this office, of letter dated April 19, 1858, to the register and receiver U. S. land office, Marysville, California.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.]

J. A. WILLIAMSON,
Commissioner of General Land Office.

GENERAL LAND OFFICE,
April 19, 1858.

REGISTER AND RECEIVER,
Marysville, California:

GENTLEMEN: For your information and government in the
264 matter therein referred to, I enclose a copy of my communication of this date to the surveyor-general at San Francisco.

Very respectfully, your ob't servant,

THOS. HENDRICKS,
Commissioner.

(Endorsed:) No. 1976. U. S. v. C. P. R. R. Co. Complainant's Exhibit O. Opened by stipulation of counsel and refiled August 13, 1885. L. S. B. Sawyer, clerk.

265 EXHIBIT P.

(Copy.)

U. S. LAND OFFICE,
Marysville, California, June 7th, 1858.

DEAR SIR: By the last steamer I received a communication from the Commissioner of the General Land Office, calling attention to the fact that portions of townships 16 and 17, ranges 3 and 4 west (Mt. Diablo), well covered by private claims now before the courts for confirmation. I also received a copy of a letter addressed to you, dated April 18th, 1858, upon the same subject. Previous to the instructions reaching me the townships above referred to had been offered for sale under the proclamation of the President. I desire to ascertain, if possible, what portion of the land is covered by private claims so that I may withhold the same from private entry.

I wish you would, at as early a day as possible, forward to me the boundaries of the land so claimed.

The land will be subject to private entry on the 14th day of this month. It is very important that I should have the information sought at as early a day as possible.

266 Very respectfully, your ob't servant,

E. O. F. HASTINGS,
Register.

Hon. J. W. MANDEVILLE,
U. S. Surveyor-General, San Francisco, Cala.

[Vignette.]

OFFICE OF THE SURVEYOR-GENERAL,
OF THE UNITED STATES, FOR CALIFORNIA.

I, J. W. Ames, surveyor-general of the United States for State of California, do hereby certify that the preceding, and hereunto annexed, is a full, true, and correct copy of a certain instrument of writing now of record and on file in this office, and in my custody; that I have carefully compared the same with said original, and that the same is a correct transcript therefrom, and of the whole of such original.

In testimony whereof I have hereunto signed my name officially, and caused my seal of office to be affixed, at the city of San Francisco, this 23d day of January, 1878.

[SEAL.]

J. W. AMES,
U. S. Surveyor-General for California.

(Endorsed:) No. 1976. U. S. v. C. P. R. R. Co. Complainant's Exhibit P. Opened by stipulation of counsel and re-filed, August 13, 1885. L. S. B. Sawyer, clerk.

267 EXHIBIT Q.

(Copy.)

U. S. SUR. GEN'L'S OFFICE,
San Francisco, California, June 10th, 1858.

SIR: Your favor of the 7th inst. is received. In relation to the fact "that portions of t'ps 16 and 17 N., R. 3 and 4 W., Mount Diablo me-

ridian, are covered by private claims now before the courts for confirmation," I would state that the only record in this office concerning private claims on said townships is that of the papers in No. 311, on docket of the Board of U. S. Land Commissioners for eleven (11) leagues of land in the Sacramento valley, claimed by Manuel Diaz. This claim was rejected by said board. In April last Messrs. Halleck, Peachy and Billings addressed a letter to this office, stating that said claim covered T. 16 & 17 N., R's 3 & 4 W., and T. 17 N., R. 5 W.

This information was forwarded to the Department at Washington, and the letter from the Commissioner to yourself was the result.

There has not yet been filed in this office a final decree, &c., from any court upon which I could order the final survey of the above-claimed rancho, and close up the public lines thereon, and consequently I can give you no further or definite information on the subject; but I have no doubt that there is a claim covering in part or the whole of said townships
268 still unadjudicated in the U. S. courts. By reference to sec. 6, of the act of March 3rd, 1853, to provide for the survey of public lands in California, &c., you will see that "lands claimed under any foreign grant or title" are excepted from being offered at public sale.

Very respectfully, your ob't serv't,

J. W MANDEVILLE,
U. S. Sur. Gen'l.

E. O. F. HASTINGS,
Register, &c., Marysville.

[Vignette.]

OFFICE OF THE SURVEYOR-GENERAL
OF THE UNITED STATES FOR CALIFORNIA.

I, J. W. Ames, surveyor-general of the United States for the State of California, do hereby certify that the preceding, and hereunto annexed, is a full, true, and correct copy of a certain instrument of writing now of record and on file in this office and in my custody; that I have carefully compared the same with said original, and that the same is a correct transcript therefrom, and of the whole of such original.

In testimony whereof, I have hereunto signed my name officially, and caused my seal of office to be affixed, at the city of San Francisco, this 23d day of January, 1878.

J. W. AMES,
U. S. Surveyor-General for California.

(Endorsed:) 1976. U. S. v. C. P. R. R. Co. Complainant's Exhibit Q. Opened by stipulation of counsel, and re-filed August 13, 1885. L. S. B. Sawyer, clerk.

269 EXHIBIT R.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
June 12th, 1878.

I, J. A. Williamson, Commissioner of the General Land Office, do hereby certify that the annexed is a true and literal exemplification of

letter of June 18th, 1858, from register & receiver, Marysville, California, now on file in this office.

In testimony whereof I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] J. A. WILLIAMSON,
Commissioner of General Land Office.

U. S. LAND OFFICE,
Marysville, California, June 18th, 1858.

SIR: Your letter dated April 19th, 1858, enclosing a copy of a letter to the surveyor-general at San Francisco, relative to townships 16 & 17 north, of ranges 3 & 4 west, was not received at this office until
270 after the closing of the public land sales for this district required to be held during the month of May.

We having no official information that the townships above referred to were covered by private claims, offered the same for sale in accordance with the proclamation of the President, dated September 16th, 1857.

But a small portion of the land in those townships was disposed of, as will appear from our general report forwarded by this mail.

We have every reason to believe that the lands sold are not embraced within the limits of the private claims referred to.

Since the receipt of your communication we have deemed it proper to withhold the lands in said townships from private entry or location by pre-emption.

We respectfully ask further instructions relative to our duty in the premises.

We have the honor to be, very respectfully, your ob'd't servants,
E. O. F. HASTINGS,
Register.
CHARLES LINDLEY,
Receiver.

To the Honorable THOMAS A. HENDRICKS,
271 *Commissioner of the General Land Office,*
Washington City, D. C.

(Endorsed:) No. 1976. U. S. v. C. P. R. R. Co. Complainant's Exhibit R. Opened by stipulation of counsel and refiled August 13, 1885. L. S. B. Sawyer, clerk.

272 EXHIBIT S.

(Copy.)

LAND OFFICE,
Marysville, March 19th, 1859.

SIR: I am under the necessity of applying to you for specific and definite information as to whether T. 17 N., R. 5 W., is covered in whole or in part by any private grant or claim. By reference to your letter addressed to me under date of 11th June last it appears you then considered that a claim still unadjudicated did extend over all or some portion

of the said township, but from information lately received I have reason to suppose that there is no claim extending over the land in question. The favor of an early answer to this inquiry is respectfully solicited.

Very respectfully, your ob't serv't,

E. O. F. HASTINGS,
Register.

Hon. J. M. MANDEVILLE,
U. S. Survey General, San Francisco.

[Vignette.]

OFFICE OF THE SURVEYOR-GENERAL
OF THE UNITED STATES FOR CALIFORNIA.

I, J. W. Ames, surveyor-general of the United States for the
273 State of California, do hereby certify that the preceding and annexed is a full, true, and correct copy of a certain instrument of writing now of record and on file in this office and in my custody; that I have carefully compared the same with said original, and that the same is a correct transcript therefrom and of the whole of such original.

In testimony whereof I have hereunto signed my name officially and caused my seal of office to be affixed, at the city of San Francisco, this 23d day of January, 1878.

[SEAL.]

J. W. AMES,
U. S. Surveyor-General for California.

(Endorsed:) 1976. U. S. v. C. P. R. R. Co. Complainant's Exhibit S. Opened by stipulation of counsel and refiled August 13, 1885. L. S. B. Sawyer, clerk.

274 EXHIBIT T.

(Copy.)

U. S. SURVEYOR-GENERAL'S OFFICE,
San Francisco, Cala., March 22d, 1859.

SIR: Your favor of the 19th instant has been duly received. I this day called upon the firm of Halleck, Peachy & Billings, att'ys for Manuel Diaz, claiming 11 (eleven) leagues of land in the Sacramento Valley, and being case No. 311 on the docket of the U. S. land commission, and made inquiry upon subject-matter of your communication, and received for reply thereto that they still claim that this grant will cover and embrace in whole or in part T. 16 &17 N., R. 3 & 4 W., and T. 17 N., R. 5 W., Mt. Diablo meridian.

For the reason stated in my letter to you of 10th of June last, and to which reference is made, no more definite and specific information can at present be given upon the subject.

Very respectfully, your ob't serv't,

O. P. SUTTON,
Ch'f Clerk.

E. O. F. HASTINGS, Esq.,
Reg. Land Office, Marysville, Cala.

[Vignette.]

OFFICE OF THE SURVEYOR-GENERAL
OF THE UNITED STATES FOR CALIFORNIA.

I, J. W. Ames, surveyor-general of the United States for the State of California, do hereby certify that the preceding and hereunto
275 annexed, is a full, true, and correct copy of a certain instrument of writing now of record and on file in this office and in my custody; that I have carefully compared the same with said original, and that the same is a correct transcript therefrom and of the whole of such original.

In testimony whereof I have hereunto signed my name officially and caused my seal of office to be affixed at the city of San Francisco this 23d day of January, 1878.

[SEAL.] J. W. AMES,
U. S. Surveyor-General for California.

(Endorsed:) 1976. U. S. v. C. P. R. R. Co. Complainant's Exhibit T. Opened by stipulation of counsel and refiled August 13, 1885. L. S. B. Sawyer, clerk.

276 EXHIBIT U.

(Copy.)

U. S. LAND OFFICE,
Marysville, California, 28th October, 1861.

SIR: Your letters of the 27th Sept. and 24th Oct., 1861, transmitting lists of townships withdrawn from suspension in this district, I have to acknowledge.

The suspension of the townships named took place, if at all, during the term of my predecessor. In many cases the plats are marked "Withheld from sale on information received from Sur. Gen'l, &c." When plats were so marked, I believe, the suspension has been properly respected. But upon the plats of many of the townships returned as having the suspension removed nothing indicates that they ever were withheld. In order to satisfy my mind more fully in the matter, I have caused an investigation of the records of the office to be made, resulting in the conviction that my predecessor did properly mark the plats of all townships returned to him as "withheld," as far as information at my com-
277 mand enables me to determine; the records of this office show only, I believe, the following named townships to have been suspended, *i. e.*, of the lists recently returned:

Tp. 8 N., R. 8 E.; portions withheld as mineral, and as covered by private claims; balance offered.

Tp. 13 N., R. 6 E.; portions withheld as mineral, and as covered by private claims; balance offered.

Tp. 14 N., R. 5 E.; suspended.
" 15 " " 5 " "
" 15 " " 6 " "
" 16 " " 5 " "
" 17 " " 1 " "

Tp. 29 N., R. 3 W.; patents ordered to be returned in this township; no notice of suspension.

Tp. 29 N., R. 4 W.; suspended.
" 30 " " 3 " "
" 31 " " 3 " "
" 30 " " 4 " "
" 31 " " 4 " "

In some of the townships returned as having the suspension removed sales have recently been made, as in T. 17 N., R. 1 E., and in (T. 10 N., R. 2 E.), was offered at public sale in June, except as to the portion covered by a private claim. Portions of T's 8 N., 8 E., and 13 N., 6 E., were withheld, not only on account of private claims, but on account of minerals. Whether the removal of the suspension in these town-
278 ships is to operate so as to throw open for pre-emption or sale without any restriction whatever I am unable to determine.

Townships included in the list transmitted to us and not mentioned in the foregoing list have no record in this office, to my knowledge, as ever having been suspended.

Specific advice in the premises is respectfully asked.

Very respectfully, your ob't servant,

A. J. SNYDER,
Register.

Hon. E. F. BEALE,
U. S. Surv. Gen'l, California.

[Vignette.]

OFFICE OF THE SURVEYOR-GENERAL
OF THE UNITED STATES FOR CALIFORNIA.

I, J. W. Ames, surveyor-general of the United States for the State of California, do hereby certify that the preceding, and hereunto annexed, is a full, true, and correct copy of a certain instrument of writing now of record and on file in this office, and in my custody; that I have
279 carefully compared the same with said original, and that the same is a correct transcript therefrom, and of the whole of such original.

In testimony whereof I have hereunto signed my name officially and caused my seal of office to be affixed, at the city of San Francisco, this 23d day of January, 1878.

[SEAL.]

J. W. AMES,
U. S. Surveyor-General for California.

(Indorsed:) No. 1976. U. S. v. C. P. R. R. Co. Complainant's Exhibit U. Opened by stipulation of counsel and re-filed August 13, 1885. L. S. B. Sawyer, clerk.

280 EXHIBIT V.

(Copy.)

U. S. SUR. GEN'L'S OFFICE,
San Francisco, Cal'a, Oct. 31st, 1861.

Hon. A. J.,
Register U. S. Land Office, Marysville, Cal'a:

SIR: Your communication of the 28th inst. indicates that your are not in possession of the necessary data in relation to townships suspended on

account of private grants or other causes in your district; I therefore transmit complete corrected list of all townships in the Marysville district suspended at this date.

The suspension of all other townships is withdrawn.

In relation to mineral lands, I refer you to my letter of the 30th inst.

Very respectfully, your ob't serv't,

E. F. BEALE,
U. S. Sur. Gen'l for California.

Townships in the Marysville land district, north and west of Mt. Diablo, suspended on account of private grants or other causes, &c.

Township.	Range.	Remarks.
16 N.	3 W.	Manuel Diaz grant.
16 "	4 "	
17 "	3 "	
17 "	4 "	
17 "	5 "	
281 23 "	3 "	Suspended until map is changed.
27 "	3 "	Sections 31 to 36, inclusive, & only till map is changed.

E. F. BEALE,
U. S. Sur. Gen'l for California.

U. S. SUR. GEN'L'S OFFICE,
San Francisco, Cal'a, Oct. 31st, 1861.

[Vignette.]

OFFICE OF THE SURVEYOR-GENERAL
OF THE UNITED STATES FOR CALIFORNIA.

I, J. W. Ames, surveyor-general of the United States for the State of California, do hereby certify that the preceding, and hereunto annexed, is a full, true, and correct copy of a certain instrument of writing now of record and on file in this office, and in my custody; that I have carefully compared the same with said original, and that the same is a correct transcript therefrom, and of the whole of such original.

In testimony whereof I have hereunto signed my name officially, and caused my seal of office to be affixed, at the city of San Francisco, this 23d day of January, 1878.

[SEAL.]

J. W. AMES,
U. S. Surveyor-General for California.

282 (Endorsed:) No. 1976. U. S. v. C. P. R. R. Co. Complainant's Exhibit V. Opened by stipulation of counsel and refiled August 13, 1885. L. S. B. Sawyer, clerk.

283 EXHIBIT W.

(Copy.)

U. S. SUR. GEN'L'S OFFICE,
San Francisco, Sept. 21st, 1865.

SIR: For the information of the Department I herewith enclose a copy of a letter of Messrs. Halleck, Peachy & Billings, who notify this office

that T. 14 N., R. 5 W., M. D. M., is claimed to be within the exterior boundaries of a grant to Manuel Diaz, now before the U. S. district court by adjudication.

That tp. has already been sectionized, but to remove all doubt and cause of conflict, I have to request that you will suspend the issuance of patent or other evidence of title to lands in said township until the Diaz claim is finally disposed of.

I have the honor to be, very respectfully, your ob't ser't,

L. UPSON,
U. S. Sur. Gen'l for Cal'a.

[Vignette.]

OFFICE OF THE SURVEYOR-GENERAL
OF THE UNITED STATES FOR CALIFORNIA.

I, J. W. Ames, surveyor-general of the United States for the State
284 of California, do hereby certify that the preceding, and hereunto annexed, is a full, true, and correct copy of a certain instrument of writing now of record and on file in this office, and in my custody; that I have carefully compared the same with said original, and that the same is a correct transcript therefrom, and of the whole of such original.

In testimony whereof I have hereunto signed my name officially, and caused my seal of office to be affixed, at the city of San Francisco, this 23d day of January, 1878.

[SEAL.]

J. W. AMES,
U. S. Surveyor-General for California.

(Endorsed:) 1976. U. S. v. C. P. R. R. Co. Complainant's Exhibit W. Opened by stipulation of counsel and re-filed August 13, 1885. L. S. B. Sawyer, clerk.

285 EXHIBIT X.

(No. 18.)

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
June 12th, 1878.

I, J. A. Williamson, Commissioner of the General Land Office, do hereby certify that the annexed is a true and literal exemplification from the records of this office of letter dated November 18, 1865, to the register and receiver U. S. land office, Marysville, California.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington on the day and year above written.

[SEAL.]

J. A. WILLIAMSON,
Commissioner of General Land Office.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE, *November* 18, 1865.

GENTLEMEN: By letter to this office dated 21st September last the surveyor-general reports that township 14 N., of R. 5 W., in your dis-

trict, is claimed as embraced in a grant to Manuel Diaz, now before
286 the proper court for adjudication, and requests that the issue of patent or other evidence of title for lands therein may be suspended until the Diaz claim be finally disposed of.

Returns have been received here for two entries in said township, which will be suspended, viz: Homestead entries Nos. 304 & 305, by Godfrey C. Ingram and Joseph E. Ingram, 14th September last, for NE. ¼ of sec. 9, and E. ½ of NE. ¼, and E. ½ of SE. ¼ sec. 4.

You will allow no more entries therein until further orders.

Very respectfully, your ob'd't servant,

(Signed) J. M. EDMUNDS,
Commissioner.

REGISTER & RECORDER,
Marysville, California.

(Endorsed:) 1976. U. S. v. C. P. R. R. Co. Complainant's Exhibit X. Opened by stipulation of counsel and refiled August 13, 1885. L. S. B. Sawyer, clerk.

287 EXHIBIT Y.

(Copy.)

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
May 11th, 1866.

L. UPSON,
Surveyor-General, Cal.:

SIR: Will you please inform this office if the conflict between the Manuel Diaz grant and the pre-emption entry of John Sites, R. & R. No. 5, for the SE. ¼ sec. 19, tp. 17 N., R 4 W., has been decided, or if the same still exists, as shown by your report of October 23rd, 1861.

Very respectfully etc., yours etc.,

J. M. EDMUNDS,
Commissioner.

[Vignette.]

OFFICE OF THE SURVEYOR-GENERAL,
OF THE UNITED STATES FOR CALIFORNIA.

I, J. W. Ames, surveyor-general of the United States for the State of California, do hereby certify that the preceding and hereunto annexed is a full, true, and correct copy of a certain instrument of writing now of record and on file in this office and in my custody; that I have carefully compared the same with said original, and that the same is a correct
288 transcript therefrom, and of the whole of such original.

In testimony whereof I have hereunto signed my name officially and caused my seal of office to be affixed, at the city of San Francisco, this 23d day of January, 1878.

[SEAL.] J. W. AMES,
U. S. Surveyor-General for California.

(Endorsed:) No. 1976. U. S. v. C. P. R. R. Co. Complainant's Exhibit Y. Opened by stipulation of counsel and refiled August 13, 1885. L. S. B. Sawyer, clerk.

289 EXHIBIT Z.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
June 12th, 1878.

I, J. A. Williamson, Commissioner of the General Land Office, do hereby certify that the annexed is a true and literal exemplification, from the records of this office, of letter to surveyor-general of California, dated May 29, 1866.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] J. A. WILLIAMSON,
Commissioner of General Land Office.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
May 29, 1866.

LAWRENCE UPSON, Esq.,
Surveyor-General, San Francisco, California:

SIR: Inclosed you will find a map of public surveys in California, whereon please cause to be designated in bright color those townships or parts of townships where the title of the United States to the
290 public lands is yet in question, or where the correct boundaries of private grants as finally confirmed have not as yet been indicated on approved township plats transmitted to this office.

The foregoing information being of importance, you are requested to furnish it immediately upon the receipt of this letter, and, in case the accompanying should prove of no avail for the purpose, you will exhibit the localities on a special diagram at as early a time as possible.

All monthly lists of lands entered, selected, etc., in local offices now remaining in yours, awaiting examination and certification, you are required to act upon promptly and to transmit to this office.

The object which Department has in view in calling for the information hereinbefore stated is to supersede the action now required on your part in the examination of the lists and monthly reports.

I am, very respectfully, your obedient servant,
(Signed.) J. M. EDMUNDS,
Commissioner.

(Endorsed:) 1976. U. S. v. C. P. R. R. Co. Complainant's Exhibit Z. Opened by stipulation of counsel and re-filed August 13, 1885. L. S. B. Sawyer, clerk.

291 EXHIBIT AA.

(Copy.)

OFFICE U. S. SUR. GEN'L,
San Francisco, Cal., June 23rd, 1866.

REGISTER U. S. LAND OFFICE,
Marysville:

SIR: I have, at the suggestion of the Department, examined the plat of Tp. 14 N., R. 5 W., Mt. D. M., in connection with the future location of the "Manuel Diaz" grant, should the same be confirmed by the U. S. courts. Being satisfied from the evidence that the can not reach so far south. You are requested to remove the suspension of entries heretofore made in said township.

If you will report to this office a list thereof I will certify the same for patent.

Very respectfully,

L. UPSON,
U. S. Sur. Gen'l for Cal'a.

[Vignette.]

OFFICE OF THE SURVEYOR-GENERAL
OF THE UNITED STATES FOR CALIFORNIA.

I, J. W. Ames, surveyor-general of the United States for the State of California, do hereby certify that the preceding and hereunto an-
292 nexed is a full, true, and correct copy of a certain instrument of writing now of record and on file in this office and in my custody; that I have carefully compared the same with said original, and that the same is a correct transcript therefrom, and of the whole of such original.

In testimony whereof I have hereunto signed my name officially, and caused my seal of office to be affixed at the city of San Francisco, this 23d day of January, 1878.

[SEAL.]

J. W. AMES,
U. S. Surveyor-General for California.

(Endorsed:) 1976. U. S. v. C. P. R. R. Co. Complainant's Exhibit AA. Opened by stipulation of counsel and refiled August 13, 1885. L. S. B. Sawyer, clerk.

293 EXHIBIT BB.

(Copy.)

U. S. SUR. GEN'L'S OFFICE,
San Francisco, June 29th, '66.

SIR: In answer to your communication of May 11th ult., relating to the conflict between the Manuel Diaz grant and the pre-emption entry of John Sites, R. & R., No. 5, for the SE. ¼ of Sec. 19, Tp. 17 N., R. 4 W.

I would state that the suspension of said tp. has not been withdrawn, as the case of the above-mentioned grant is still before the United States district court.

Very respectfully, your ob'd't serv't,

L. UPSON,
U. S. Sur. Gen'l for Cal'a,
Per E. CONWAY,
Chief Clerk.

Hon. J. M. EDMUNDS,
Comm'r Gen'l Land Office, Washington, D. C.

[Vignette.]

OFFICE OF THE SURVEYOR-GENERAL
OF THE UNITED STATES FOR CALIFORNIA.

I, J. W. Ames, surveyor-general of the United States for the State of California, do hereby certify that the preceding and hereunto annexed is a full, true, and correct copy of a certain instrument of writing now
294 of record and on file in this office and in my custody; that I have carefully compared the same with said original, and that the same is a correct transcript therefrom and of the whole of such original.

In testimony whereof I have hereunto signed my name officially, and caused my seal of office to be affixed, at the city of San Francisco, this 23d day of January, 1878.

[SEAL.]

J. W. AMES,
U. S. Surveyor-General for California.

(Endorsed:) 1976. U. S. v. C. P. R. R. Co. Complainant's Exhibit BB. Opened by stipulation of counsel and refiled August 13, 1885. L. S. B. Sawyer, clerk.

295 EXHIBIT CC.

(Copy.)

JULY 9th, 1866.

SIR: In compliance with your request of May 29th ult., I have carefully examined the suspensions in the various land districts of the State on account of private grants, with the following result:

HUMBOLDT DISTRICT.

The Indian reservation (marked yellow on the map) is the only one in the district.

MARYSVILLE DISTRICT.

The suspensions in this district are reduced to two.

1st. Manuel Diaz grant now before the U. S. district court, northern district, for adjudication of the title.

2d. The

This grant has been finally surveyed and will be forwarded to the Department when the ninety days shall expire, in accordance with the act of Congress of July 1st, 1864.

STOCKTON DISTRICT.

The Roland grant is the last claim to be settled in this district. Surveyor-General Beale withdrew the suspension from the tracts
296 claimed by this grant, when the opinion of the district court rejecting the claim was had. It appears from the records of the court that the claim has been lately revived, and I therefore mark the same in yellow.

VISALIA DISTRICT.

All private land claims are settled. I would recommend therefore that the Department relieve this office from future reports on lands in all the above districts, leaving only the San Francisco district to be reported upon. Referring again to the Manuel Diaz grant, a careful examination shows that in no event can the location reach Tp. 14 N., R. 5 W., Mt. D. M. The suspension therefore was removed and the register requested to send a list of tracts heretofore located, which I herewith enclose, and report the suspension withdrawn from said township.

All lists from the registers of the several land office at the present date in this office have been forwarded to the Department.

Very respectfully, your ob'd't serv't,

L. UPSON,
U. S. Sur. Gen'l for Cal.

Hon. J. M. EDMONDS,
Comm'r Gen'l Land Office, Washington, D. C.

297 [Vignette.]

OFFICE OF THE SURVEYOR-GENERAL
OF THE UNITED STATES FOR CALIFORNIA.

I, J. W. Ames, surveyor-general of the United States for the State of California do hereby certify that the preceding and hereunto annexed is a full, true, and correct copy of a certain instrument of writing now of record, and on file in this office and in my custody; that I have carefully compared the same with said original, and that the same is a correct transcript therefrom and of the whole of such original.

In testimony whereof I have hereunto signed my name officially and caused my seal of office to be affixed, at the city of San Francisco, this 23d day of January, 1878.

[SEAL.]

J. W. AMES,
U. S. Surveyor-General for California.

(Endorsed:) 1976. U. S. v. C. P. R. R. Co. Complainants' exhibit C C. Opened by stipulation of counsel and refiled August 13, 1885. L. S. B. Sawyer, clerk.

298 EXHIBIT DD.

(Copy.)

OFFICE U. S. SURVEYOR FOR CAL'A,
San Francisco, Dec. 10th, 1868.

L. B. AYER, Esq.,
Reg. U. S. Land Office, Marysville, Cal'a:

SIR: Referring to certain township surveys in your office, claimed by Manuel Diaz, the former suspension is hereby modified so as to embrace only t'ps 16 and 17 N., R. 2, west. The E½ of tp. 16 N., R. 3 W., and secs. 22, 23, 24, 25, 26, 27, 34, 35, and 36 in tp. 17 N., R. 3 W., Mt. D. M.

The NE. ¼ and W. ½ of tp. 17 N., R. 3 W; the W. ½ of tp. 16 N., R. 3 W., and the whole of townships 16 and 17 N., R. 4 W., and tp. 17 N., R. 5 W., Mt. D. M., are hereby released from said suspension and restored to the body of public lands.

Very respectfully,

SHERMAN DAY,
U. S. Sur. Gen'l,
Per E. CONWAY,
Ch'f Clk.

[Vignette.]

OFFICE OF THE SURVEYOR-GENERAL
OF THE UNITED STATES FOR CALIFORNIA.

I, J. W. Ames, surveyor-general of the United States for the
299 State of California, do hereby certify that the preceding and hereunto annexed is a full, true, and correct copy of a certain instrument of writing now of record and on file in this office, and in my custody; that I have carefully compared the same with said original, and that the same is a correct transcript therefrom and of the whole of such original.

In testimony whereof I have hereunto signed my name officially and caused my seal of office to be affixed, at the city of San Francisco, this 23d day of January, 1878.

[SEAL.]

J. W. AMES,
U. S. Surveyor-General for California.

(Endorsed:) 1976. U. S. v. C. P. R. R. Co. Complainant's Exhibit DD. Opened by stipulation of counsel, and refiled August 13, 1885. L. S. B. Sawyer, clerk.

300 EXHIBIT EE.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Febr'y 12th, 1870.

U. S. SURVEYOR-GENERAL,
San Francisco, California:

SIR: I have to request that you will inform this office, as early as practicable, as to what cause, if any exists, for the further suspension of sections 22, 23, 24, 25, 26, 27, 34, 35, and 36 of township 17 N., R. 3 W., Mt. Diablo mer.

It appears from our records that the whole of the above township was suspended per letter of the surveyor-general of July 9th, 1866, until the final location of the "Manuel Diaz grant," and that under date of Dec. 10th, 1868, the same officer notified the register at Marysville that the suspension had been modified so as to embrace only the above-named sections in tp. 17 N., R. 3 W., the NE. ¼ and W. ½ of the tp. being released from suspension, and restored to the body of public lands. The "Manuel Diaz grant" having been finally rejected by decision of the district court of the northern district of California, under date of March 15th, 1858, and no appeal taken therefrom and a portion of the lands embraced in the limits of said grant restored to market, if no other cause for sus-
301 pension exists, the remaining portion of the township 17 north, range 3 west, should be released from suspension, and the lands restored to market.

Please advise this office as to the status of the said lands as shown by your records.

I am, sir, very respectfully, your ob't serv't,

JOS. S. WILSON,
Commissioner.

[Vignette.]

OFFICE OF THE SURVEYOR-GENERAL
OF THE UNITED STATES FOR CALIFORNIA.

I, J. W. Ames, surveyor-general of the United States for the State of California, do hereby certify that the preceding and hereunto annexed is a full, true, and correct copy of a certain instrument of writing now of record and on file in this office, and in my custody; that I have carefully compared the same with said original, and that the same is a correct transcript therefrom and of the whole of such original.

302 In testimony whereof I have hereunto signed my name officially and caused my seal of office to be affixed, at the city of San Francisco, this 23d day of January, 1878.

[SEAL.]

J. W. AMES,
U. S. Surveyor-General for California.

(Endorsed:) 1976. U. S. v. C. P. R. R. Co. Complainant's Exhibit EE. Opened by stipulation of counsel, and refiled August 13, 1885. L. S. B. Sawyer, clerk.

303 EXHIBIT F F.

(Copy.)

U. S. SURVEYOR-GENERAL'S OFFICE,
San Francisco, Feb'y 25th, 1870.

Hon. J. S. WILSON,
Comm'r Gen. Land Office, Washington, D. C.:

SIR: In reply to your letter "C," of Feb'y 12th, I have to state that the "Manuel Diaz grant" has no other records in this office than that of the land commissioner and the minutes of suspension made in its favor.

Its status in the courts is as follows: On March 15th, 1858, as you state in your letter, it was rejected by the U. S. district court northern district. April 5th of same year a new trial was granted.

June 16th, 1862, a new trial was granted. Some time after Oct. 15th, 1865, the case was transferred to the circuit court on account of interest on the part of Judge Hoffman. On 1st of July, 1867, after agreement by counsel, the claim was rejected by the circuit court; since then no further records. Time for appeal will not expire until 1872.

It was to secure against a possible appeal that the sections named were continued in suspension.

Very respectfully, your ob't serv't,

THOMAS DAY,
U. S. Surveyor-General for California.

304 [Vignette.]

OFFICE OF THE SURVEYOR-GENERAL
OF THE UNITED STATES FOR CALIFORNIA.

I, J. W. Ames, surveyor-general of the United States for the State of California, do hereby certify that the preceding and hereunto annexed is a full, true, and correct copy of a certain instrument of writing now of record and on file in this office and in my custody; that I have carefully compared the same with said original, and that the same is a correct transcript therefrom and of the whole of such original.

In testimony whereof I have hereunto signed my name officially and caused my seal of office to be affixed at the city of San Francisco, this 23d day of January, 1878.

[SEAL.]

J. W. AMES,
U. S. Surveyor-General for California.

(Endorsed:) 1976. U. S. v. C. P. R. R. Co. Complainant's Exhibit F F. Opened by stipulation of counsel and refiled August 13, 1885. L. S. B. Sawyer, clerk.

305 EXHIBIT G G.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
June 12th, 1878.

I, J. A. Williamson, Commissioner of the General Land Office, do hereby certify that the annexed is a true and literal exemplification from the records of this office of letter to surveyor-general of California, dated August 16, 1872.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington on the day and year above written.

[SEAL.]

J. A. WILLIAMSON,
Commissioner of General Land Office.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., Aug. 16, 1872.

U. S. SURVEYOR-GENERAL,
San Francisco, Cal.:

SIR: The attention of the office has been called to the lands lying in tp's 17 and 18 N., of range 2 W., Mt. Diablo meridian, Marys-
306 ville district, Cal., which have been segregated by the State as swamp lands.

The State of California is not entitled to said lands by virtue of such segregation, the survey thereof having been made since July 23, 1866.

Should the State desire to prove the swampy character of the said lands under the latter clause of the 4th section of the act of 1866, you will appoint a time and place when you will take testimony respecting the true character of the lands in question, in compliance with instructions heretofore furnished you in similar cases.

A large number of persons having applied for pre-emptions on the lands above mentioned, it is desirable that the matter be disposed of as speedy as possible.

Very respectfully, your ob'd't serv't,

WILLIS DRUMMOND,
Commissioner.

(Endorsed:) 1976. U. S. v. C. P. R. R. Co. Complainant's Exhibit G G. Opened by stipulation of counsel and refiled August 13, 1885. L. S. B. Sawyer, clerk.

307 EXHIBIT H H.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
June 12th, 1878.

I, J. A. Williamson, Commissioner of the General Land Office, do hereby certify that the annexed is a true and literal exemplification, from the files of this office, of letter dated August 26, 1872, from the U. S. surveyor-general, San Francisco, California.

In testimony whereof I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

J. A. WILLIAMSON,
Commissioner of General Land Office.

U. S. SURVEYOR-GENERAL'S OFFICE,
San Francisco, August 26th, 1872.

Hon. WILLIS DRUMMOND,
Com'r Gen'l Land Office, Washington, D. C.:

SIR: Yours of 16th inst., marked "K," referring to swamp land in t'ps 17 and 18 N., R. 2 W., M. D. M., is rec'd.

308 In reply, I have delayed holding an investigation at the request of the many settlers upon the lands in question, as they are all busy,

engaged in harvesting their wheat. I will appoint a time at an early day and hold the investigation, as required by the 4th section of the act 1866.

I am going to Los Angeles and San'a Barbaria in a few days to examine the survey of some contested ranchos, and on my return will give the notice required.

Very respectfully, your ob't serv't,

J. R. HARDENBERGH,
U. S. Sur. Gen'l for Cala.

(Endorsed) 1976. U. S. v. C. P. R. R. Co. Complainant's Exhibit H H. Opened by stipulation of counsel, and re-filed August 13, 1885. L. S. B. Sawyer, clerk.

309 EXHIBIT II.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
June 12th, 1878.

I, J. A. Williamson, Commissioner of the General Land Office, do hereby certify that the annexed is a true and literal exemplification, from the files of this office, of letter and enclosures from U. S. surveyor-general, San Francisco, California, the date of said letter being November 26, 1872.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington on the day and year above written.

[SEAL.] J. A. WILLIAMSON,
Commissioner of General Land Office.

U. S. SURVEYOR-GENERAL'S OFFICE,
San Francisco, Nov'r 26th, 1872.

Hon. WILLIS DRUMMOND,
Com'r Gen'l Land Office, Washington, D. C.:

SIR: I have the honor to submit the following statement of facts for your examination in relation to T. 16 & 17 N., R. 2 west, M. D. M., viz:

310 The settlers in said township, on the 1st of May, 1871, applied for a survey of said township, and made the necessary deposit to complete the subdivision thereof.

The State of Cal'a, by notice filed May 12, 1872, applied for the lands in said township for the State University under the act of March 3, 1871.

The State surveyor-general of Cal'a, under date of October 20th, 1871, notified this office that large portion of said township was claimed by the State of Cal'a as swamp and overflowed, under the act of 1866.

The township was duly surveyed by this office and the plat filed in the Marysville land office Sept. 12th, 1871.

The State having applied for an examination of the character of the land in said township claimed as swamp, I appointed the 13th of Nov. last as the time and Colusa the place to hold an investigation. I commenced the investigation at the time and place appointed, when the question was raised that said township was claimed as a part of the "Manuel Diaz" grant, and, as such, that I had no authority to hold an examination.

I adjourned the case till the 8th of January next to investigate the matter. I now find that the land in said township has been suspended
311 on account of said grant, but from the order of the Department transmitted to my predecessor it appears that said grant was considered to be void for want of appeal.

I enclose a copy of said letter.

I find by an examination of the records of U. S. district court that an appeal was taken from the final decree of said court to the Supreme Court of the U. S. January 28th, 1871, and is now pending, as shown by the accompanying certificate of the clerk of the court.

I also enclose a copy of your letter of August 16th last, directing that an examination be held.

I submit for your decision, and ask instructions in the matter as above stated.

I would respectfully ask a ruling and reply at the earliest day possible.

Very respectfully, your ob't servant,

J. R. HARDENBERGH,
U. S. Sur. Gen'l for California.

(Copy.)

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Feb'y 12, 1870.

U. S. SURVEYOR-GENERAL,
San Francisco, California:

312 SIR: I have to request that you will inform this office as early as practicable as to what cause, if any exists, for the further suspension of sections 22, 23, 24, 25, 26, 27, 34, 35, and 36 of township 17 N., R. 3 W., Mt. Diablo Mer.

It appears from our records that the whole of the above township was suspended per letter of the surveyor-general of July 9, 1866 (to the General Land Office), until the final location of the "Manuel Diaz grant," and that under date of Dec. 10, 1868, the same officer notified the register at Marysville that the suspension had been modified so as to embrace only the above-named sections in 17 N., 3 W., the NE. ¼ and W. ½ of the township being released from suspension and restored to the body of public lands.

The Manuel Diaz grant having been finally rejected by decision of the district court for the southern district of California, under date of March 15, 1858, and no appeal taken therefrom, and a portion of the lands embraced in the limits of said grant restored to market, if no other cause for suspension exists, the remaining portions of the Township 17 N., R. 3 W., should be released from suspension, and the lands restored to market.

Please advise this office as to the status of the said lands as shown by your record.

313 I am, sir, very respectfully, your ob't servant,

(Signed) JOS. S. WILSON,
Commissioner.

UNITED STATES OF AMERICA,
District of California, ss:

I, Lorenzo S. B. Sawyer, clerk of the circuit court of the United States of the ninth judicial circuit, in and for the district of California, do hereby certify that on January twenty-eight, A. D. 1871, an appeal was duly taken and perfected from the final decree of said circuit court to the Supreme Court of the United States in the cause entitled "The United States vs. Manuel Diaz," and that since January 28th, A. D. 1871, no other or further proceedings have been taken in said cause.

Witness my hand and the seal of the said circuit court this 26th day of November, A. D. 1872.

[SEAL.]

L. S. B. SAWYER,
Clerk.

By J. F. O'BEIRNE,
Dep. Clerk.

(Copy.)

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., 16 *Aug.*, 1872.

U. S. SURVEYOR-GENERAL, *San Francisco, Cal'a:*

314 SIR: The attention of this office has been called to the lands lying in T'ps 17 and 18 N., of range 2 W., Mt. Diablo meridian, Marysville district, Cal., which have been segregated by the State as swamp lands.

The State of California is not entitled to said lands by virtue of segregation, the survey thereof having been made since July 23, 1866.

Should the State desire to prove the swampy character of the said lands under the latter clause of the 4th section of the act of 1866, you will appoint a time and place when you will take testimony respecting the true character of the lands in question, in compliance with instructions heretofore furnished you in similar cases.

A large number of persons having applied for pre-emptions on the lands above mentioned, it is desirable that the matter be disposed of as speedily as possible.

Very respectfully, your ob't servant,

(Signed) WILLIS DRUMMOND,
Commissioner.

(Endorsed:) 1976. U. S. v. C. P. R. R. Co. Complainant's Exhibit II. Opened by stipulation of counsel and refiled August 13, 1885. L. S. B. Sawyer, clerk.

315 EXHIBIT KK.

(Copy.)

OFFICE U. S. SUR. GEN'L FOR CAL'A,
San Francisco, Jan. 6th, 1873.

PUBLISHER COLUSA SUN, *Colusa, Cala.:*

SIR: I have to request that you discontinue the advertisement in relation to swamp-land claim in Tps. 16 & 17 N., R. 2 W., Mt. D. M., and send me your bill for publishing the same.

It is ascertained upon examination that an appeal was taken to the Supreme Court in the case of the Manuel Diaz grant January 28th, 1871, and, as said grant covers the land in contest, no further proceedings can be had until the Supreme Court renders its decision.

If this is received within the next two months, the case, if allowed to proceed, will be called at Colusa on the 8th day of April next.

I should be pleased if you would insert an item to that effect in your next edition.

Very respectfully,

J. R. HARDENBERGH,
U. S. Sur. Gen'l for Cal'a.

[Vignette.]

OFFICE OF THE SURVEYOR-GENERAL
OF THE UNITED STATES FOR CALIFORNIA.

I, J. W. Ames, surveyor-general of the United States for the
316 State of California, do hereby certify that the preceding and hereunto annexed is a full, true, and correct copy of a certain instrument of writing now of record and on file in this office and in my custody; that I have carefully compared the same with said original, and that the same is a correct transcript therefrom and of the whole of such original.

In testimony whereof I have hereunto signed my name officially and caused my seal of office to be affixed at the city of San Francisco this 23d day of January, 1878.

[SEAL.]

J. W. AMES,
U. S. Surveyor-General for California.

(Endorsed:) 1976. U. S. v. C. P. R. R. Co. Complainant's Exhibit KK. Opened by stipulation of counsel and refiled August 13, 1885. L. S. B. Sawyer, clerk.

317 EXHIBIT LL.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
June 12th, 1878.

I, J. A. Williamson, Commissioner of the General Land Office, do hereby certify that the annexed is a true and literal exemplification from the records of this office of letter to U. S. surveyor-general, California, dated January 9, 1873.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed at the city of Washington on the day and year above written.

[SEAL.]

J. A. WILLIAMSON,
Commissioner of General Land Office.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., Jauary 9, 1873.

Hon. J. R. HARDENBERGH,
U. S. Surveyor-General, San Francisco, California:

SIR: Referring to your letter of 26 November last in regard to lands in Tps. 16 & 17 N., range 2 west, Mount Diablo meridian, on part of

318 which, to wit, 17 N., 2 W., an investigation in regard to the swampy character thereof was ordered by this office August 16, 1872, I have to say that so far as the title to said lands may be the subject of litigation in any suit pending in the United States courts any further investigation before you should be suspended.

You may proceed with the investigation in regard to such lands as are not thus in litigation.

Very respectfully, your ob't s'v't,

WILLIS DRUMMOND,
Commissioner.

(Endorsed:) 1976. U. S. v. C. P. R. R. Co. Complainant's Exhibit LL. Opened by stipulation of counsel and refiled August 13, 1885. L. S. B. Sawyer, clerk.

319 EXHIBIT MM.

(Copy.)

OFFICE U. S. SUR. GEN'L FOR CAL'A,
San Francisco, Jan'y 22, 1873.

L. B. AYER, Esq'r,
Marysville:

SIR: I have to request that you suspend the plats of survey of the following townships, on account of the Manuel Diaz grant, viz:

Tp. 16 N., R. 2 W., Mt. D. M.
Tp. 17 N., R. 2 W., Mt. D. M.
Tp. 16 N., R. 4 W., Mt. D. M.
Tp. 17 N., R. 4 W., Mt. D. M.
Tp. 17 N., R. 5 W., Mt. D. M.
The east ½ of Tp. 16 N., R. 3 W., Mt. D. M.
Secs. 22, 23, 24, 25, 26, 27, 34, 35, & 36, of Tp. 17 N., R. 3 W., Mt. D. M.
The NE. ¼ & W. ½ of Tp. 17 N., R. 3 W., Mt. D. M.
The W. ½ of Tp. 16 N., R. 3 W., Mt. D. M.

Very respectfully, &c.,

J. R. HARDENBERGH,
U. S. Sur. Gen'l for Cal'a.

[Vignette.]

OFFICE OF THE SURVEYOR-GENERAL
OF THE UNITED STATES FOR CALIFORNIA.

I, J. W. Ames, surveyor-general of the United States for the State of California, do hereby certify that the preceding and annexed is
320 a full, true, and correct copy of a certain instrument of writing now of record and on file in this office and in my custody; that I have carefully compared the same with said original, and that the same is a correct transcript therefrom and of the whole of such original.

In testimony whereof I have hereunto signed my name officially and caused my seal of office to be affixed at the city of San Francisco this 23d day of January, 1878.

[SEAL.] J. W. AMES,
U. S. Surveyor-General for California.

(Endorsed:) 1976. U. S. v. C. P. R. R. Co. Complainant's Exhibit MM. Opened by stipulation of counsel and refiled August 13, 1885. L. S. B. Sawyer, clerk.

321 EXHIBIT NN.

(Copy.)

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., June 4th, 1873.

J. R. HARDENBERGH, Esq'r.,
Surveyor-General, San Francisco, Cal'a:

SIR: I have to request that you transmit, as early as practicable, a connected diagram of the "Manuel Diaz grant," with such data as may be connected therewith.

Please refer to this by data as "G."

Very respectfully,

W. W. CURTIS,
Act'g Commissioner.

[Vignette.]

OFFICE OF THE SURVEYOR-GENERAL
OF THE UNITED STATES FOR CALIFORNIA.

I, J. W. Ames, surveyor-general of the United States for the State of California, do hereby certify that the preceding, and hereunto annexed, is a full, true, and correct copy of a certain instrument of writing now of record and on file in this office and in my custody; that I have carefully compared the same with said original, and that the same is a
322 correct transcript therefrom, and of the whole of such original.

In testimony whereof I have hereunto signed my name officially and caused my seal of office to be affixed, at the city of San Francisco, this 23d day of January, 1878.

[SEAL.] J. W. AMES,
U. S. Surveyor-General for California.

(Endorsed:) 1976. U. S. v. C. P. R. R. Co. Complainant's Exhibit NN. Opened by stipulation of counsel and refiled August 13, 1885. L. S. B. Sawyer, clerk.

323 EXHIBIT OO.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
June 12th, 1878.

I, J. A. Williamson, Commissioner of the General Land Office, do hereby certify that the annexed is a true and literal exemplification, from

the files and records of this office, of letter dated June 18, 1873 (with its enclosures), to the surveyor-general of California.

In testimony whereof, I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.]

J. A. WILLIAMSON,
Commissioner of General Land Office.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., June 18, 1873.

J. R. HARDENBERGH, Esq.,
U. S. Surveyor-General, San Francisco, California:

SIR: I inclose herewith a copy of a letter dated June 9, 1873, and accompanying paper, from D. W. Middleton, esq., clerk of the
324 Supreme Court of the United States, relative to the case of Manuel Diaz vs. The United States, in the said court on appeal from the circuit court of the United States for California.

It is presumed that a mandate in the above-entitled cause has been issued or will soon issue from the United States Supreme Court to said circuit court, and you are therefore requested, when said mandate shall have been received by the circuit court, to procure a duly certified copy thereof, and of the decree of the circuit court which it affirms, and transmit the same to this office at the earliest practicable moment.

Very respectfully,

W. W. CURTIS,
Acting Commissioner.

[Enclosures.]

OFFICE SUPREME COURT U. S.,
Washington City, 9th June, 1873.

Hon. W. W. CURTIS,
Acting Com'r Gen. Land Office:

DEAR SIR: I am this date in receipt of your favor of the 5th inst., C., vol. 123, p. 488, and reply that no opinion was delivered in the case referred to.

325 The Chief-Justice merely announced the decision, affirming the decree of the circuit court, on the authority of two cases cited by him in a memorandum filed by him at the time, a copy of which I enclose herewith.

Respectfully yours,

D. W. MIDDLETON.

Supreme Court of the United States, No. 97, December term, 1872.

MANUEL DIAZ
vs.
THE UNITED STATES.

Appeal from the circuit court of the United States for the district of California.

Mr. Chief-Justice Chase delivered the opinion of the court.

I am instructed to say that the decree in the circuit court for the district

of California is affirmed on the authority of Pico v. The United States, 2 Wal., 279, and Peralta v. The United States, 3 Wal., 434.

It is not thought necessary to do more than to refer to these cases.

326 (Endorsed:) 1796. U. S. v. C. P. R. R. Co. Complainant's Exhibit OO. Opened by stipulation of counsel and refiled August 13, 1885. L. S. B. Sawyer, clerk.

327 EXHIBIT Q Q.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
June 12, 1878.

I, J. A. Williamson, Commissioner of the General Land Office, do hereby certify that the annexed is a true and literal exemplification of letter of November 25th, 1867, from receiver U. S. land office, Marysville, California, from the original on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] J. A WILLIAMSON,
Commissioner of General Land Office.

RECEIVER'S OFFICE, U. S. LAND OFFICE,
Marysville, California, 25th November, 1867.

To the Hon. JOS. S. WILSON,
Commissioner of the General Land Office, Washington, D. C.:

SIR: The register being out of commission, I have the honor to acknowledge the receipt of your communication of the 29th ult., and the
328 accompanying "map of the designated line of route of the California and Oregon Railroad between Roseville, on the Central Pacific Railroad, and Salt Creek, in township 32 N., of range 5 west Mount Diablo meridian, State of California," at 12 o'clock m. this day.

The map will be retained in my office until there is a register to file it.

Very respectfully, your obd't servant,

CHARLES G. BOCKINS,
Receiver.

(Endorsed:) 1976. U. S. v. C. P. R. R. Co. Complainant's Exhibit Q Q. Opened by stipulation of counsel and refiled August 13, 1885. L. S. B. Sawyer, clerk.

329 COMPLAINANT'S EXHIBIT S S.

No. 41. A. P. E.

F.] DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
June 12th, 1878.

I, J. A. Williamson, Commissioner of the General Land Office, do hereby certify that the annexed are true and literal exemplifications of letter of September 13, 1867, from the Acting Secretary of the Interior, and its enclosures, on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.]

J. A. WILLIAMSON,
Commissioner of General Land Office.

330

DEPARTMENT OF THE INTERIOR,
Washington, D. C., Sept. 13, 1867.

SIR: I transmit herewith a map showing the route of the California and Oregon Railroad between Roseville, on the Central Pacific Railroad, and Salt Creek, in township No. 32 N., R. No. 5 W., Mount Diablo meridian, and a copy of a letter from Geo. T. M. Davis, esq., dated the 12th instant, accompanying the same.

You are instructed to cause the lands to be withdrawn, on account of said road, in accordance with the act of Congress entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific Railroad, in California, to Portland, in Oregon," approved July 25, 1866.

Very respectfully, your obd't servant,

W. T. OTTO,
Acting Secretary.

Hon. JOSEPH S. WILSON,
Commissioner of the General Land Office.

331

[Enclosure. Copy.]

NEW YORK, *Sept.* 12, 1867.

Hon. O. H. BROWNING,
Secretary of the Interior Department:

DEAR SIR: In pursuance of the (2d) second section of the act of Congress entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific Railroad in California to Portland, in Oregon," approved July 25th, 1866, I have the honor herewith to hand you a map, duly certified by the proper officers of "The California and Oregon Railroad Company," showing the surveyed and designated line of said railroad as established by that company. And as the agent of, and on behalf of said "The California and Oregon Railroad Company," to request that said map may be duly filed in your Department, and that the public lands to which said railroad company is

332 entitled under and by virtue of the hereinbefore designated act of Congress may be withdrawn from sale.

I am, dear sir, yours, very truly.

(Signed) GEO. T. M. DAVIS,
For and in Behalf of the California and Oregon Railroad Company.

U. S. }
v. } 1976.
C. P. R. R. Co. }

Complainant's Exhibit SS.

(Endorsed:) Opened by stipulation of counsel and refiled August 13, 1885. L. S. B. Sawyer, clerk.

333 EXHIBIT T T.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., 10th June, 1878.

I, C. Schurz, Secretary of the Interior, hereby certify that the papers numbered 1 & 2, hereto attached, are true copies of records of this Department, have been compared therewith, and found to be correct.

In testimony whereof I have hereunto subscribed my name and caused the seal of the Department of the Interior to be affixed the day and year above written.

[SEAL.]

C. SCHURZ,
Secretary of the Interior.

(Copy.)

DEPARTMENT OF THE INTERIOR,
Washington, D. C., Jan. 22d, 1867.

SIR: I have this day received from the Commissioner of the General Land Office, and appropriately filed in this Department, a certified copy of a resolution adopted at a meeting of the board of directors of the California and Oregon Railroad Company, held on the 8th day of October, 1866, assenting to the act of Congress entitled, "An act granting land to aid in the construction of a railroad and telegraph line from the
334 Central Pacific Railroad, in California, to Portland, in Oregon," approved July 25th, 1866.

I am, sir, very respectfully, your ob't servant,

O. H. BROWNING,
Secretary.

JOHN P. BRODIE,
Secretary of the California and Oregon Railroad Company,
San Francisco, Cal.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., Jan. 22d, 1867.

SIR: I have received your letter of the 21st instant, with the accompanying certified copy of a resolution adopted at a meeting of the board of directors of the California and Oregon Railroad Company, held on the 8th day of October, 1866, assenting to the act of Congress entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific Railroad, in California, to Portland, in Oregon," approved July 25th, 1866.

John P. Brodie, esq., the secretary of the company, has this day been informed of the receipt and filing of said resolution.

335 I am, sir, very respectfully, your ob't servant,

O. H. BROWNING,
Secretary.

Hon. JOS. S. WILSON,
Commissioner of the General Land Office.

(Endorsed:) 1976. U. S. v. C. P. R. R. Co. Complainant's Exhibit TT. Opened by stipulation of counsel and refiled August 13, 1885. L. S. B. Sawyer, clerk.

336 EXHIBIT UU.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., 10th June, 1878.

I, C. Schurz, Secretary of the Interior, hereby certify that the paper hereto attached is a true copy of a certified copy of the original now on file in the Department, has been compared therewith, and found to be correct.

In testimony whereof I have hereunto subscribed my name and caused the seal of the Department of the Interior to be affixed the day and year above written.

[SEAL.] C. SCHURZ,
Secretary of the Interior.

(Copy.)

OFFICE OF THE CALIFORNIA AND
OREGON RAILROAD COMPANY,
San Francisco, Oct. 8th, 1866.

At a meeting of the board of directors, regularly held pursuant to notice—present, Alpheus Ball, president; William E. Barron, Joseph Barron, S. G. Elliott, and C. Temple Emmet—S. G. Elliott offered the following resolution, which was unanimously adopted, viz:

Resolved, That this company do hereby assent to an act of the
337 Congress of the United States entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific Railroad, in California, to Portland, in Oregon," approved July 25th, 1866, and that this assent be filed in the Department of the Interior of the United States.

Passed unanimously.

OFFICE OF THE CAL. & OREGON R. R. CO.,
San Francisco, Dec. 7th, 1866.

I hereby certify that the foregoing, taken from the minutes of the California and Oregon Railroad Company, is a true and correct copy of a resolution duly adopted by the board of directors of said company at a meeting of said board regularly held at the office of the company in the city and county of San Francisco, State of California, on the eighth day of October, A. D. one thousand eight hundred and sixty-six.

[SEAL.] JOHN P. BRODIE,
Sec'y Cal. & Oregon R. R. Co.

[5 ct. stamp.]

(Endorsed:) 1976. U. S. v. C. P. R. R. Co. Complainant's Exhibit UU. Opened by stipulation of counsel and refiled Augut 13, 1885. L. S. B. Sawyer, clerk.

338 EXHIBIT VV.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., 10th June, 1878.

I, C. Schurz, Secretary of the Interior, hereby certify that the paper hereto attached is a true copy of the original now on file in this Department, has been compared therewith, and found to be correct.

In testimony whereof I have hereunto subscribed my name and caused

the seal of the Department of the Interior to be affixed the day and year above written.

C. SCHURZ,
Secretary of the Interior.

(Copy.)

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
January 21st, 1867.

SIR: On the 10th inst. the Hon. I Bidwell, House of Representatives, filed a certified copy of the resolution of the board of directors of the California and Oregon Railroad Company assenting to the act of July 25th, 1866, pamphlet laws, p. 239, which I have the honor to enclose for filing in the Department, as provided by the 6th section of the above-
339 named act.

With great respect, your ob'd't serv't,

JOS. S. WILSON,
Commissioner.

Hon. O. H. BROWNING,
Secretary of the Interior.

(Endorsed:) 1976. U. S. v. C. P. R. R. Co. Complainant's Exhibit V V. Opened by stipulation of counsel and refiled August 13, 1885. L. S. B. Sawyer, clerk.

340 EXHIBIT W W.

(Copy.)

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., July 18th, 1873.

JAMES R. HARDENBERGH, Esq.,
U. S. Surveyor-General, San Francisco, Cal'a:

SIR: Referring to my communication "D" of the 18th ult. relative to the claim of Manuel Diaz for a certain tract of land in the Sacramento River Valley in California, I have now to inform you that this office is in possession of a certified copy of the mandate and opinion of the Supreme Court relative to said land claim, delivered 3d March, 1873, affirming the decision of the board of land commissioners of Oct. 31st, 1854, and circuit court of July 1st, 1867, rejecting the claim of Manuel Diaz.

Any township plats of survey that may have been suspended from local land office on account of the undecided condition of said claim may now be restored to the files of that office.

You are requested to report the date of your action upon these instructions.

Very respectfully, your ob't serv't,

WILLIS DRUMMOND,
Commissioner.

(Memorandum by J. D. Wildes, chief draughtsman, office U. S. surveyor-general, July 28th, 1873: "The maps are this day marked 'release from suspension,'" in accordance with the foregoing instructions, with the exception of the swamp land suspension in tp. 16 N., R. 2 W., M. D. M.)

341 [Vignette.]

OFFICE OF THE SURVEYOR-GENERAL
OF THE UNITED STATES FOR CALIFORNIA.

I, J. W. Ames, surveyor-general of the United States for the State of California, do hereby certify that the preceding and hereunto annexed is a full, true, and correct copy of a certain instrument of writing now of record and on file in this office and in my custody; that I have carefully compared the same with said original, and that the same is a correct transcript therefrom and of the whole of such original.

In testimony whereof I have hereunto signed my name officially and caused my seal of office to be affixed, at the city of San Francisco, this 23d day of January, 1878.

[SEAL.] J. W. AMES,
U. S. Surveyor-General for California.

(Endorsed:) 1976. U. S. vs. C. P. R. R. Co. Complainant's Exhibit W W. Opened and refiled by stipulation of counsel August 13, 1885. L. S. B. Sawyer, clerk.

342 EXHIBIT X X.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
June 12, 1878.

I, J. A. Williamson, Commissioner of the General Land Office, do hereby certify that the annexed is a true and literal exemplification of letter of May 24, 1877, to Henry Beard, esq., attorney Central Pacific Railroad Company, as the same appears of record in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] J. A. WILLIAMSON,
Commissioner of General Land Office.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., May 24th, 1877.

HENRY BEARD, Esq.,
Attorney Central Pacific Railroad Company, Washington, D. C.:

SIR: I am directed by the Hon. Secretary of the Interior to make demand upon your company for relinquishment to the United
343 States by it of its claim to lands erroneously patented to it (as successor by consolidation to the California & Oregon Railroad Company) prior to the rendition of judgment by the Supreme Court of the United States in the case of Newhall vs. Sawyer (2 Otto, p. 761) declaring that lands within the limits of a grant to a railroad company, claimed under foreign grants unadjudicated at the date of the act making grant to the company, were not lands to which the United States possessed title, and therefore could not be disposed of under the grant to the company.

The annexed schedule shows the tracts lying in townships reserved from sale or entry on account of the claim of Manuel Diaz under a foreign grant, which was sub judice at the date of the grant to the California & Oregon Railroad Company, July 25, 1866; at the date of the definite

location of the road and at the date when lands were withdrawn for the benefit of the grant to the company. These tracts were subsequently selected by and patented to your company as successors to the California & Oregon Railroad Company.

As in view of the decision of the Supreme Court, before meutioned, patents for these lands were erroneously issued to your company, you will please lay this demand before the proper officers of the company, in order that relinquishment of its claim to the lands may be made by the company at the earliest possible date.

344 Please acknowledge receipt of this communication and indicate within thirty days what action your company will take thereon.

Respectfully,

J. A. WILLIAMSON,
Commissioner.

List of lands lying in townships reserved on account of foreign grant claim of Manuel Diaz, which have been selected by and patented to the Central Pacific Railroad Company (successor by consolidation to the California & Oregon Railroad Company) under act of Congress approved July 25, 1866.

[North and west of Mount Diablo base and mer.]

Parts of section.	Sec.	Town.	Range.	Acres.	Date of patent.
Lot 4 of NW. ¼ and E. ½ sec	3	16	2	358. 94	March 17, 1875
SW. ¼, NW. ¼; NW. ¼, SW. ¼	5	"	"	80. 00	" " "
NW. ¼; NW. ¼ NE. ¼; NE. ¼ SW. ¼, and lots 3 & 4 of SW. ¼.	7	"	"	308. 06	" " "
E. ½	9	"	"	320. 00	" " "
All	15	"	"	640. 00	" " "
All	19	"	"	628. 14	" " "
E. ½ NE. ¼	21	"	"	80. 00	" " "
NW. ¼	23	"	"	160. 00	" " "
SW. ¼ NE. ¼; NW. ¼, and S. ½ sec	29	"	"	520. 00	" " "
All	31	"	"	628. 06	" " "
NE. ¼ SW. ¼	35	"	"	40. 00	" " "
345 All	7	17	2	652. 40	March 5, 1872
Lots 3 & 4 of NE. ¼ & SE. ¼	15	"	"	269. 32	" " "
SW. ¼; lots 1 & 2 of NW. ¼	15	"	"	268. 44	" " "
S. ½; lots 1, 2, 3, and 4	17	"	"	533. 24	" " "
All	19	"	"	645. 98	" " "
E. ½; SW. ¼, and SE. ¼ NW. ¼	27	"	"	520. 00	" " "
All	29	"	"	640. 00	" " "
All	31	"	"	641. 60	" " "
N. ½, NW. ¼; SW. ¼ NW. ¼; NW. ¼ SW. ¼; S. ½ SW. ¼, and S. ½ SE. ¼.	33	"	"	320. 00	" " "
NW. ¼ NW. ¼, & lot 1 SW. ¼	35	"	"	92. 28	" " "
E. ½ NE. ¼, and lots 2 & 3 of SE. ¼	35	"	"	184. 56	" " "
NE. ¼ NW. ¼	35	"	"	40. 00	Dec'r 20, 1875
All	1	16	3	640. 00	March 17, 1875
All	3	"	"	638. 40	" " "
All	11	"	"	640. 00	" " "
NW. ¼ SE. ¼; E. ½ SE. ¼; SW. ¼, and N. ½ section	13	"	"	600. 00	" " "
All	15	"	"	640. 00	" " "
NE. ¼ SW. ¼; W. ½ SW. ¼; SE. ¼, and N. ½ section	23	"	"	600. 00	" " "
All	25	16	3	640. 00	" " "
All	27	"	"	640. 00	" " "
All	35	"	"	640. 00	" " "
All	1	17	3	640. 00	March 5, 1872
All	3	"	"	639. 78	" " "
S. ½	5	"	"	320. 00	" " "
346 All	7	17	3	636. 58	March 5, 1872
W. ½; N. ½ NE. ¼, & S. ½ SE. ¼	9	"	"	480. 00	" " "
All	11	"	"	640. 06	" " "
All	13	"	"	640. 00	" " "
All	15	"	"	640. 00	" " "
All	17	"	"	640. 00	" " "
NW. ¼	23	"	"	160. 00	March 17, 1875
All	25	"	"	640. 00	" " "
SW. ¼	27	"	"	160. 00	" " "
W. ½	35	"	"	320. 00	" " "
Total				20, 805. 78	

(Endorsed:) 1976. U. S. v. C. P. R. R. Co. Complainant's Exhibit X X. Opened by stipulation of counsel and refiled August 13, 1885. L. S. B. Sawyer, clerk.

347 EXHIBIT YY.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
June 12, 1878.

I, J. A. Williamson, Commissioner of the General Land Office, do hereby certify that the annexed is a true and literal exemplification of letter of May 28, 1877, from Henry Beard, esq., attorney Central Pacific Railroad Company, from the original in the files of this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.]

J. A. WILLIAMSON,
Commissioner of General Land Office.

WASHINGTON, D. C., *May 28th*, 1877.

Hon. J. A. WILLIAMSON,
Comm'r Gen'l Land Office:

SIR: I have to acknowledge the receipt of your letter of the 24th inst., stating that you have been directed by the Secretary of the Interior to make demand upon the Central Pacific Railroad Company for relin-
348 quishment to the United States of its claims to sundry tracts of lands heretofore patented by the United States to said company, situated in townships 16 & 17 N., of ranges 2 & 3 W., Mt. Diablo meridian, California.

Said letter has this day been forwarded to C. P. Huntington, esq., vice-president of the company, No. 9 Nassau st., New York.

Very respectfully,

HENRY BEARD,
Att'y for Cent. Pac. R. R. Co.

(Endorsed:) 1976. U. S. v. C. P. R. R. Co. Complainant's Exhibit YY. Opened by stipulation of counsel and refiled August 13, 1885. L. S. B. Sawyer, clerk.

349 COMPLAINANT'S EXHIBIT AAA.

UNITED STATES OF AMERICA, *ss:*

[SEAL.] The President of the United States of America, to the honorable the judges of the circuit court of the United States for the district of California, greeting:

Whereas, lately in the circuit court of the United States for the district of California, before you, or some of you, in a cause between Manuel Diaz, appellant, and the United States, appellee, wherein the decree of the said circuit court, entered in said cause on the first day of July, A. D. 1867, is in the following words, viz:

"Case on appeal from the decree of land commission transferred to the circuit court by reason of the interest of the district judge. There is no trace in the archives of the grant produced by the claimant, and the case accordingly falls within the rule laid down in Pico vs. United States,

2 Wall'ce, 279, and in Peralta vs. United States, 3 Wallace, 434. Under the authority of these cases the decree of the commissioners must
350 be affirmed and the claim rejected; and it is so ordered;"

As by the inspection of the transcript of the record of the said circuit court, which was brought into the Supreme Court of the United States by virtue of an appeal, agreeably to the act of Congress, in such case made and provided, fully and at large appears;

And whereas, in the present term of December, in the year of our Lord one thousand eight hundred and seventy-two, the said cause came in to be heard before the said Supreme Court, on the said transcript of record, and was argued by counsel;

On consideration whereof, it is now here ordered, adjudged, and decreed by this court that the decree of the said circuit court in this cause be, and the same is hereby, affirmed.

3 MARCH, 1873.

You, therefore, are hereby commanded that such proceedings be had in said cause as according to right and justice and the laws of the United States ought to be had, the said appeal notwithstanding.

Witness, the honorable Salmon P. Chase, Chief-Justice of said
351 Supreme Court, the first Monday of December, in the year of our Lord one thousand eight hundred and seventy-two.

Costs of ———.
Clerk, $———.
Attorney, $———.
$———.
Taxed by (signed)—

D. W. MIDDLETON,
Clerk of the Supreme Court of the United States.

True copy.
Test:
[SEAL.]

D. W. MIDDLETON,
Clerk Supreme Court U. S.

(Endorsement:) No. 97. December term, 1872. Mandate. Supreme Court, United States. Diaz vs. U. S.

(Endorsed:) 1976. U. S. v. C. P. R. R. Co. Complainant's Exhibit AAA. Opened by stipulation of counsel and refiled August 13, 1885. L. S. B. Sawyer, clerk.

352 RESPONDENT'S EXHIBIT Q.

U. S. circuit court, Cal.

U. S. v. C. P. R. R. Co. } 1976.

Respondent's Exhibit Q.—Notice.

UNITED STATES LAND OFFICE,
Marysville, Cal., December 28, 1868.

The following described lands, to wit: The northeast quarter and west half of township seventeen (17) north, range three (3) west; west half of township sixteen (16) north, range three (3) west; township sixteen (16)

and seventeen (17) north, range four (4) west, and township seventeen (17) north, range five (5) west, Mount Diablo base and meridian, having been suspended from entry and sale, notice is hereby given that said suspension is released, and that on and after eight o'clock a. m., January 29, 1869, the lands above described will be restored to their original status as surveyed public lands of the United States.

L. B. AYER,
Register.

352 U. S. LAND OFFICE,
Marysville, Cal.

STATE OF CALIFORNIA, *County of Yuba, ss:*

C. D. Dawson, being duly sworn, deposes and says: That he is the proprietor of the "Marysville Daily Appeal," a newspaper printed and published in the city of Marysville, county and State aforesaid, and that the above notice, of which a copy is hereto attached, was published in said newspaper from Dec. 29, 1868, to January 29th, 1869—4 weeks.

C. D. DAWSON.

Subscribed and sworn to before me March 30th, A. D. 1881.

J. C. BRADLEY,
Register U. S. Land Office, Marysville, Cal.

(Endorsed:) Opened by stipulation of counsel and refiled August 13, 1885. L. S. B. Sawyer, clerk.

353 EXHIBIT 3.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
March 30, 1881.

I, J. A. Williamson, Commissioner of the General Land Office, do hereby certify that the annexed copies are true and literal exemplifications of the original papers on file in this office, and of the original letters from the records of this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

J. A. WILLIAMSON,
Commissioner of General Land Office.

REGISTER'S OFFICE,
UNITED STATES LAND OFFICE,
Marysville, Cal., 4th October, 1869.

In the matter of the application of Charles D. Semple to enter certain lands within 10 miles additional limits for Cal'a & Oregon R. R. Co.

354 SIR: I have the honor to transmit herewith the record of proceedings had in the above-entitled case, with the opinion of the receiver and myself thereon.

Very respectfully, your ob'd't serv't,

L. B. AYER,
Register.

Hon. JOS. S. WILSON,
Commis'r Gen'l Land Office, Washington, D. C.

U. S. LAND OFFICE,
Marysville, Cal'a, 30th January, 1869.

In the matter of the application of Charles D. Semple to enter certain lands within 10 miles additional limits for Cal'a & Oregon R. R. Co.

Official plat filed without date.

Lands all offered May, 1858.

Reservation plat for Cal'a & Oregon R. R. Co., including lands contained in said application, filed 25th Nov., 1867.

355 17th August, 1868, Will S. Green filed applications for all the even ——— sections contained in the above-entitled application except secs. 6, 18, & 30, in T. 18 N., R. 3 W.

19th August, 1868, Peter Decker filed applications for all the even-numbered secs. contained in above-entitled application except secs. 6, 18, & 30, in T. 18 N., R. 3 W.

21st August, 1868, William C. Belcher filed applications for secs. 6, 18, & 30, T. 18 N., R. 3 W.

27th February, 1869, Will S. Green made private cash entries of all the lands contained in his said application.

And on the same day W. C. Belcher made private cash entries of all the lands in secs. 6, 18, & 30, T. 18 N., R. 3 W., contained in the said application of Semple.

Now at this day came the said Charles D. Semple and filed his applications with the register for the purchase of the following-described lands, to wit:

356 Description of land.	Sec.	T.	R.	Area.
				Acres.
E. ½	17			
N. ½	20			
N. ½	21			
SE. ¼	21	15 N	2 W	1,240.00
N. ½	21			
SE. ¼ of SW. ¼	21			
N. ½	7			
W. ½ of SW. ¼	7			
N. ½	8			
E. ½	9	15 N	2 W	1,218.00
NW. ¼	9			
S. ½ of SW. ¼	9			
Whole	24	15 N	2 W	640.
Whole	3			
"	4			
N. ½	5			
Whole	6			
"	10	15 N	2 W	4,679.20
"	14			
"	15			
"	22			
Whole	26	15 N	2 W	640.
SE. ¼	28	15 N	2 W	240.
E. ½ of NE. ¼	28			
N. ½ & SE. ¼	1			
N. ½ & SW. ¼	1			
Whole of	2	15 N	3 W	1,996.67
E. ½	3			
SW. ¼	3			
357 SE. ¼ of NW. ¼	3			
NE. ¼	12	15 N	3 W	1,996.67
N. ½ of SE. ¼	12			
W. ½	10			
W. ½ of NE. ¼	10			
W. ½ of SE. ¼	10			
W. ½	15	15 N	3 W	960.00
W. ½ of SE. ¼	15			
NE. ¼ of SE. ¼	15			
NW. ¼ of NE. ¼	15			

Description of land.	Sec.	T.	R.	Area.
				Acres.
SW. ¼	22	15 N	3 W	280.00
E. ½ of NW. ¼	22			
SW. ¼ of NW. ¼	22			
W. ½ of	34	15 N	3 W	320.00
Whole	6	18 N	3 W	3,752.71
"	7			
"	8			
"	19			
"	30			
"	31			
N. ½ of SW. ¼	8	19 N	3 W	5,840.00
N. ½	9			
S. ½	10			
NW. ¼	10			
W. ½ of NE. ¼	10			
S. ½	11			
W. ½	17			
Whole	7			
"	18			
"	19			
"	20			
W. ½	29			
Whole	30			
"	31			
358 E. ½ & NW. ¼	2	20 N	3 W	1,058.04
W. ½	3			
NE. ¼	3			
W. ½ of SE. ¼	3			
E. ½	4			
SW. ¼	4			
Whole	5			
"	6			
"	12			
"	13			
"	14			
"	24			
"	1			
"	4			
"	5			
"	6			
"	7			
"	8			
"	9			
"	17			
"	18			
"	19			
"	20			
"	22			
"	27			
N. ½	28	21 N	3 W	4,475.20
Whole	29			
W. ½ and NE. ¼	30			
Whole	31			
"	33			
"	34			
359 Whole	20			
"	21			
"	28			
"	30			
"	31			
"	32			
"	33			
"	1	18 N	4 W	1,919.20
"	12			
"	13			
W. ½	2	19 N	4 W	519.20
W. ½ of SE. ¼	2			
W. ½ of NE. ¼	2			
NE. ¼ of NE. ¼	2			
NE. ¼	4	19 N	4 W	158.20
Whole	24	20 N	4 W	1,920.00
"	25			
"	26			
E. ½	1	19 N	4 W	4,200.00
E. ½ of SW. ¼	1			
NW. ¼ of SW. ¼	1			
E. ½	12			
NW. ¼	12			
N. ½ of SW. ¼	12			
Whole of	13			
"	14			
"	24			
"	25			
"	26			

360 *Opinion.*

As appears from the foregoing abstract of the records of this office relating to the lands applied for herein by Chas. D. Semple, the odd-numbered sections thereof were within the limits of the withdrawal of 25th November, 1867, for Cala. & Oregon Railroad, and the even numbered sections thereof were in part embraced in the application by Will S. Green, of the 17th August, 1868, and in the application of Peter Decker, dated 19th August, 1868, and also in the remaining part on the 21st August, 1868, by William C. Belcher; and it also appears that on the 27th February, 1869, the said W. S. Green and W. C. Belcher entered the lands as applied for in their said respective applications in accordance with Commissioner's letter of 25th Sept., 1868.

Wherefor' by reason of the above state of facts the applications of the said Semple are hereby refused.

L. B. AYER,
Register.
CHARLES G. BACKUS,
Receiver.

361 EXHIBIT 3.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Oct. 27, 1869.

L. B. AYER, Esq.,
Register, Marysville, Cal.:

SIR: I have received yours of the 4th inst., accompanied by record of proceedings in the matter of the application of Chas. D. Semple, esq., to enter odd and even sections described in accompanying list sent up.

It appears upon examination that you were correct in refusing to receive Mr. Semple's application, upon the ground that the odd sections applied for were withdrawn 25th Nov'r, 1867, for the California & Oregon Railroad—10 miles additional limits—and that the even sections were embraced in the applications made by Will. S. Green and Wm. C. Belcher, dated 17th & 21st August, 1868, which you allowed them to enter 27th Feb'y, 1869, as the first legal applicants.

Very respectfully,

JOS. S. WILSON,
Commissioner.

362 DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Feb'y 16th, 1870.

Mess. PIKE & JOHNSON,
Att'ys, Washington City:

GENTLEMEN: I have received and considered your argument, enclosed with your letter of January, 1870, relative to the application of Chas. D. Semple, to enter certain odd-numbered sections of lands within the indemnity limits of the withdrawal for the California & Oregon Railroad at the Marysville, California, land-office.

The facts of the case are as follows: Under act of July 25th, 1866, Congress made a grant of lands for the construction of a railroad from the Central Pacific Railroad in California to Portland, Oregon, of every alternate section of land designated by odd numbers, to the amount of 20 sections per mile (ten on each side) of said railroad line, and for any of said land found sold, reserved, or otherwise disposed of additional lands are granted from the odd sections nearest to and not more than 10 miles from the first-named alternate sections.

363 Upon the filing of a map of the road through California by the company in accordance with the further requirements of the act a withdrawal of the lands granted "in place" was ordered by letter from this office to the register and receiver at Marysville, California, of date October 29th, 1867.

Subsequently, to wit, 25th September, 1868, the odd sections of land within the "indemnity" ten-mile limits were withdrawn, which order of withdrawal was duly received by the district officers.

Now, on the 30th January, 1869, Chas. D. Semple applied to purchase certain of these odd-numbered sections in the indemnity limits, which application was rejected by the district officers because of said withdrawal, which action was sustained by this office by letter of 27th October, 1869.

Your argument is adverse to the right of the Commissioner to withdraw the vacant odd-numbered sections in the indemnity limits, based on the ground that the law only authorizes the withdrawal of the granted sections, or sections in place in the twenty-mile limits, and that we are without authority for withdrawing the indemnity lands.

Without entering into an elaborate argument of this question, it is only necessary to state that in the manner of withdrawal this grant does
364 not differ from other grants for similar purposes (except those for the Union Pacific and its branches as interpreted by the Department), and that since the inauguration of the system of land-grant railroads by Congress, the right to withdraw both the indemnity and granted lands has been recognized as existing in the President, and of course in the Secretary of the Interior as the head of this Department. The right is even exercised to withdraw lands for proposed railroads, before the line of route is designated, as was the case in the withdrawal for the Illinois Central Railroad in Illinois under act Sept. 20th, 1850, where eighteen miles on each side were withdrawn upon the supposed route, whilst the total grant in place and for indemnity did not exceed fifteen miles; and also in the case of Wisconsin with, however, the qualification that a portion of the lands would be restored to market when the sketch maps of the route of the roads should be received at this office.

That Congress recognized this right, is indicated in an act passed 27th March, 1854, in which provision is made for the protection of settlers on lands withdrawn for proposed railroads; this right is also recognized by the Supreme Court of U. S. in the case of Wolcott vs. Des Moines Co., 5 Wallace, page 681.

If we admit your arguments as correct what would become of the land grants for those public works? In many cases one-third of the
365 sections "in place" have been disposed of prior to the grant, and the railroad would realize little indeed with which to build, if we declined to protect their interests under statutory concessions by a with-

drawal of the indemnity sections, because in the lapse of time preceeding the passing of ultimate railroad title from the United States those lands to a great extent might be disposed of, thus seriously diminishing the indemnity for which Congress have made express provision. Further, the very fact of withdrawal placed the odd-numbered sections applied for by Mr. Semple in a condition that they could not be taken at private entry until, if not wanted, they were thereafter duly restored to entry after 30 days' public notice. In this connection I refer you to the opinion of Attorney-General Butler, July 14, 1837.

The Commissioner must decline modifying his decision sustaining the action of the district officers in their rejection of Mr. Semple's application, but if desired will lay the case before the Hon. Secretary of the Interior by way of appeal.

Very respectfully,

JOS. S. WILSON,
Commissioner.

366

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
June 10th, 1870.

Hon. J. D. COX,
Secretary of the Interior.

SIR: I have the honor to transmit herewith by way of appeal the papers in the case of Chas. D. Semple's application to purchase at private entry certain lands withdrawn on account of the California and Oregon Railroad at the land office at Marysville, Cal., together with a copy, marked A, of our decision in the case rendered Feb. 16th, 1870.

I am, sir, very respectfully, your ob't servant,

JOS. S. WILSON,
Commissioner.

Ld. 9 & R. R.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., July 8th, 1870.

SIR: I affirm your decision in the case of Charles D. Semple's application to purchase at private entry certain lands withdrawn on ac-
367 count of the California and Oregon Railroad, and return herewith the papers transmitted with your letter of the 10th ultimo.

Very respectfully, your ob't servant,

J. D. COX,
Secretary.

Hon. JOS. S. WILSON,
Com'r of the General Land Office.

(Endorsed:) U. S. circuit court, Cal. U. S. v. C. P. R. R. Co. 1976. Respondent's Exhibit 3. Opened by stipulation of counsel and refiled August 13, 1885. L. S. B. Sawyer, clerk.

368 EXHIBIT 4.

U. S. circuit court, Cal.

U. S.
v.
C. P. R. R. Co. } 1976.

Respondent's Exhibit 4.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
March 30, 1881.

I, J. A. Williamson, Commissioner of the General Land Office, do hereby certify that the annexed copies are true and literal exemplification of the original papers on file in this office and of the original letters from the records of this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.]

J. A. WILLIAMSON,
Commissioner of General Land Office.

REGISTER'S OFFICE,
UNITED STATES LAND OFFICE,
Marysville, Cal., 5th May, 1870.

369 SIR: I have the honor to transmit herewith the application of Francis G. Burke to enter certain lands, which application I refused to approve, and from my ruling said Burke appeals.

Very resp'ly, your ob'd't,

L. B. AYER,
Register.

Hon. JOS. S. WILSON,
Comm'r Gen'l Land Office, Washington City, D. C.

LAND OFFICE AT MARYSVILLE, CALIFORNIA,
March 9th, 1870.

I, Francis G Burke, of Alameda County, California, do hereby apply to purchase the following described land, according to the returns of the surveyor-general, for which I have agreed with the register to give at the rate of one dollar and twenty-five cents per acre.

In township 17 north, of range 3 west, Mt. Diablo Meridian:

Fractional section seven (7)	636.58
S. ½ of section five (5)	320.
The whole of section seventeen (17)	640.

FRANCIS G. BURKE.

370 U. S. LAND OFFICE, MARYSVILLE, CAL.,
9th March, 1870.

I refuse the foregoing applications for the reason that said tracts of land are upon odd-numbered sections and are within the limits of the Cali-

fornia & Oregon Railroad Co. as reserved lands, and shown upon the plat transmitted to this office with Commissioner's letter, dated 29th October, 1867, and filed in the register's office 25th November, 1867.

L. B. AYER,
Register.

I, Charles G. Bockins, receiver of United States land office at Marysville, California, do hereby certify that Francis G. Burke did offer to pay to me the amount of purchase money for the lands herein described, but that I did refuse to accept any money from him for that purpose, upon the ground that the applications made by him were not approved or accepted by the register.

CHARLES G. BOCKINS,
Receiver.

Hon. L. B. AYER,
Register U. S. Land Office, Marysville, Cal.:

I appeal from your decision refusing me the right to purchase the within-described lands under my applications.

Respectfully,

FRANCIS G. BURKE.

371 DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
May 21st, 1870.

REGISTER AND RECEIVER,
Marysville, Calif'a:

GENTLEMEN: I have received the register's letter of 5th inst., sending up the appeal of Francis G. Burke from register's decision, respecting his application of March 9, 1870, to enter with tender of money certain odd sections in town's 11 & 12 N., R. 1 W.; town's 12 & 13 N., R. 2 W.; town's 14 & 15, 17 & 18 N., R. 3 W.; town's 18, 19, & 20 N., R. 4 W.; town's 20, 21 N., R. 5 W.; town's 21 & 22 N., R. 6 W.

This office approves the register's action, the land having been previously and still withdrawn for the California & Oregon Railroad, under acts of July 25, 1867.

Be pleased to notify Mr. Burk of this decision.

Very respectfully,

JOS. S. WILSON,
Commissioner.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
July 11th, 1870.

Hon. J. D. COX,
Secretary of the Interior:

372 SIR: Herewith I have the honor to lay before you a copy of my letter, of 21st May last, to register at Marysville, California, sustaining their action in refusing the application of Francis G. Burke to purchase, wither tender of money, lands withdrawn for California and Oregon Railway Company.

Mr. Burke, through the register at Marysville, has taken an appeal, which is herewith enclosed together with the papers.

I respectfully submit the matter for your consideration and decision.

With great respect, your ob't serv't,

JOS. S. WILSON,
Commissioner.

L'd G. & R. R.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., July 14th, 1870.

SIR: I have received your letter of the 11th instant, submitting an appeal taken by Francis G. Burke from your decision affirming the action of the local officers at Marysville, California, who rejected his application to purchase, with tender of money, certain lands withdrawn on account of the California and Oregon Railroad Company.

373 The principle involved is identical with that in the case of Charles D. Semple. He applied at the same office to enter lands of like character. He was represented by able attorneys and his case was fully argued.

I see no reason to change the views I expressed in your case, that the lands were withdrawn and not subject to sale.

I therefore affirm your decision, and return the papers herewith.

Very respectfully, your ob't servant,

J. D. COX,
Secretary.

Hon. JOS. S. WILSON,
Com'r of the General Land Office.

(Endorsed:) U. S. circuit court, Cal. U. S. v. C. P. R. R. Co. 1976. Respondent's Exhibit 4. Opened by stipulation of counsel, and refiled August 13, 1885. L. S. B. Sawyer, clerk.

374 EXHIBIT 6.

U. S. circuit ct., Cal.

U. S.
vs.
C. P. R. R. Co. } 1976.

Respondent's Exhibit 6.

DEPARTMENT OF THE INTERIOR,
General Land Office, March 30, 1881.

I, J. A. Williamson, Commissioner of the General Land Office, do hereby certify that the annexed letter, dated June 6, 1871, is a true and literal exemplification of the original from the record of this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.]

J. A. WILLIAMSON,
Commissioner of General Land Office.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE.
June 6, 1871.

REGISTER & RECEIVER,
Marysville, Cal.:

375 GENTLEMEN: I have received from G. W. Conn, esq., attorney, the application of George A. Putnam, made July 9th, 1870, to purchase all of sections 1 & 3 S., ½ sec. 5, sec. 7, N. ½ NE. ¼, W. ½ of sec. & S ½ SE. ¼ sec. 9, secs. 11, 13, 15, & 17, town. 17 N., R. 3 W., containing 5,276 $\frac{36}{100}$ acres, for which he duly offered payment, but which application was refused by you because the lands are in odd sections, within the reservation for the Cal. & Oregon Railroad Co. I am also in receipt through Mess. Britton & Gray, att'ys, of the application of John H. Jewett, dated 30 March, 1871, to enter the same lands, & for which payment was duly offered, but which application you refused because "the lands have been reserved from entry & sale, and therefore not subject to entry until after public notice shall be given."

The arguments of counsel in these cases embrace substantially the same points, to wit:

1st. That the lands were duly restored to market January 29, 1869, by the published notice of restoration of the register.

2d. That under the decisions of the Department the tracts do not form a part of the grant to the Cal. & Oregon Railroad, having been reserved lands at the date of the withdrawal for said road by letter of October 29, 1867.

These lands were, after having been in market some time under President's proclamation of sale, withdrawn on account of the Diaz
376 grant, but were released from suspension by the surveyor-general in 1868, and by published notice of the register, dated 28th Dec., 1868, the lands were apparently restored to their original status on 29 January, 1869. The same register who published that notice is still in office, yet in the following year he rejects an application made for the above lands because withdrawn for the Cal. & Oregon R'r'd Co., although he permits entries of the even-numbered sections in the same townships.

These lands were within the "indemnity" limits of the Cal. & Oregon R'r'd, and by letter of September 25th, 1868 (not Oct. 29, 1867, as erroneously stated in arguments), the land officers were ordered to withdraw all the odd-numbered sections in said limits from sale or entry.

The notice of restoration which followed said order was not by direction of this office, and therefore we should take notice of the action of the register thereunder as indicating the intended extent of the restoration; and this action indicates that it was his purpose to restore only such lands as, rejected from the Diaz grant, were not withdrawn for other purposes; for it is not presumed that said officer would, in view of instructions so lately received, restore said lands without special orders from this office.

We must, therefore, assume that the notice of restoration carried
377 only the even-numbered sections back to market, and that these odd-numbered sections were not restored by said notice.

Nor do I consider the 2d point as well taken, for the following reasons: The act (25th July, 1866), grants to said road every alternate section

of public lands designated by odd sections to the amount of twenty alternate sections per mile of said road.

This is the grant, and constitutes sections " in place." The law, however, provides that when any of said alternate sections or parts of sections shall be found to have been granted, sold, reserved, occupied by homestead settlers, pre-empted, or otherwise disposed of, other lands shall be selected by said company in lieu thereof, under the direction of the Secretary of the Interior, in alternate sections designated by odd numbers, &c.

There are thus exempted from the grant or sections " in place " all lands sold, reserved, or otherwise disposed of, and other lands are authorized to be selected by said company in lieu thereof; but I fail to find anything in the act that restricts said selections to land not sold, reserved, or otherwise appropriated at any specified time.

It is, therefore, my opinion that the indemnity lands may be selected from any public lands found to be vacant & unappropriated at the
378 date of selection within the indemnity limits, but of course restricted to odd sections, and with the view to the proper protection of the indemnity lands, all public lands embraced by odd sections in the indemnity limits should be held as withdrawn until the grant is fuliy satisfied.

With this view I decide that the lands applied for are properly withdrawn for the Oregon & Cal. Railroad, and that the district officers were right in rejecting the applications of Mess. Putnam & Jewett.

With reference to the Scott case, referred to by Mess. Britton & Gray, I am confident that the fact of said claim being within the indemnity and not in the granted limits did not appear to my predecessor in his decision on said case. As the lands however embraced by said entry are now entirely outside of both the granted and indemnity limits of the withdrawal, this decision does not affect the status of that claim. The attorneys have been notified of the decision in the Putnam & Jewett case and allowed the usual time for appeal.

Very respectfully,

WILLIS DRUMMOND,
Commissioner.

(Endorsed:) U. S. circuit ct., Cal. U. S. v. C. P. R. R. Co.
379 1976. Respondent's Exhibit 6. Opened by stipulation of counsel and refiled August 13, 1885. L. S. B. Sawyer, clerk.

380 EXHIBIT 7.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
April 7, 1881.

I, C. W. Holcomb, Acting Commissioner of the General Land Office, do hereby certify that the annexed copy of a letter addressed to the register and receiver at Marysville, California, October 13, 1871, is a true and literal exemplification from the records of this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.]

C. W. HOLCOMB,
Acting Commissioner of General Land Office.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
October 13, 1871.

REGISTER & RECEIVER,
Marysville, Cal.:

GENTLEMEN: Referring to my decision rendered in the letter to you of 6th June last, in the case of Geo. A. Putnam and John H. Jewett
381 vs. Cal. & Oregon Railroad Company, I inform you that the parties decline to appeal from the decision. You will therefore consider the applications of Mess. Putnam & Jewett as finally rejected, and the lands as withdrawn for the California & Oregon Railroad Company.

Very respectfully,

WILLIS DRUMMOND,
Commissioner.

(Endorsed:) U. S. circuit c't, Cal. U. S. v. C. P. R. R. Co. 1976. Respondent's exhibit 7. Opened by stipulation of counsel and refiled August 13, 1885. L. S. B. Sawyer, clerk.

382 RESPONDENT'S EXHIBIT 8.

U. S. circuit c't, Cal.

U. S.
v.
C. P. R. R. Co. } 1976.

Respondent's exhibit.

F. T. C. J. D. S.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
March 30, 1881.

I, J. A. Williamson, Commissioner of the General Land Office, do hereby certify that the annexed abstract copy of list of selections, December 13, 1871, by the Central Pacific Railroad Company, is a true and literal exemplification of that portion of the original list on file to which it relates.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.]

J. A. WILLIAMSON,
Commissioner of General Land Office.

383 OFFICE OF THE CENTRAL PACIFIC RAILROAD COMPANY,
Sacramento, California, December 11th, 1871.

I, Edward H. Miller, jr., secretary of the "Central Pacific Railroad Company" (successor, by consolidation, to "The Central Pacific Railroad Company of California" and the "California and Oregon Railroad Company"), hereby certify that Benjamin B. Redding was appointed land agent of the said "Central Pacific Railroad Company," successor, by consolidation, to the said "California and Oregon Railroad Company," by the board of directors of said company, at a regular meeting held on the twenty-second

(22d) day of August, A. D. 1870, and that since that time he has been continuously, and is now, the land agent of the said company.

In testimony whereof I have hereunto set my hand and affixed the corporate seal of said company this 11th day of December, A. D. 1871.

EDWARD H. MILLER, Jr.,
Secretary of the "Central Pacific Railroad Company."

[Central Pacific Railroad Company. Seal.]

[5-ct. internal-revenue stamp.]

384 *List of lands in the Marysville land district, California, selected by the "Central Pacific Railroad Company," successor, by consolidation, to "The California and Oregon Railroad Company."*

The undersigned, the duly authorized land agent of the Central Pacific Railroad Company (successor, by consolidation, to "The Central Pacific Railroad Company of California" and "The California and Oregon Railroad Company"), under and by virtue of the acts of Congress entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific Railroad, in California, to Portland, in Oregon, approved July 25th, 1866, and the act amendatory thereof, approved June 25th, 1868, and under and in pursuance of the rules and regulations prescribed by the Commissioner of the General Land Office and contained in a circular dated January 24th, 1867, hereby makes and files the following list of selections of public land claimed by the said

"Central Pacific Railroad Company," successor to the said "The
385 California and Oregon Railroad Company," as inuring to it, and to which it is entitled, under and by virtue of the grant and provisions of the said acts of Congress, and the location of the line of the route of the said railroad and telegraph of said "California and Oregon Railroad Company," being for a section of seventy-seven and $\frac{6}{10}$ miles of said road, commencing at a point in the town of Roseville, in the county of Placer, State of California, where said railroad and telegraph line connects with the Central Pacific Railroad, and terminating at or near the town of Chico, in the county of Butte, in said State, at the end of the seventy-seventh and $\frac{6}{10}$ mile, which said section of road and telegraph has been duly accepted by the President of the United States, as provided in the aforesaid acts of Congress, the selections being particularly described as follows:

BENJAMIN B. REDDING,
Land Agent of the Central Pacific Railroad Company.

* * * * * * *

386 Part of section.	No. of section.	No. of town.	No. of range.	Area.	Fees of register and receiver.
				Acres.	
* * * *	*	*	*	*	* *
Lots 3 & 4 of NE. ¼	15	17 N	2 W	269.32	3.50
SE. ¼	15				
* * * * *	*	*	*	*	* *
E. ½ of NE. ¼	35	17 N	2 W	184.56	2.50
Lots 2 & 3 of	35				
* * * * *	*	*	*	*	* *

STATE OF CALIFORNIA,
County of Sacramento, ss:

I, Benjamin B. Redding, being duly sworn, depose and say, that I am the land agent of the "Central Pacific Railroad Company," (successor, by consolidation, to "The Central Pacific Railroad Company, of California," and "The California and Oregon Railroad Company;") that the foregoing list of lands, which I hereby select, is a correct list of a portion of the public lands claimed by the said "Central Pacific Railroad Company," successor to the said "The California and Oregon Railroad Company," for which a grant of land was made by the acts of Congress entitled
387 "An act granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific Railroad, in California, to Portland, in Oregon, approved July 25th, 1866, and the act amendatory thereof, approved June 25th, 1868; that the said lands are vacant, unappropriated, and are not interdicted, mineral, nor reserved lands, and are of the character contemplated by the grant, lying within the limits of twenty (20) miles on each side of the line of route of said road, being for a section of seventy-seven and $\frac{6}{10}$ miles of said road, commencing at a point in the town of Roseville, in the county of Placer, State of California, where said railroad and telegraph line connects with the Central Pacific Railroad, and terminating at or near the town of Chico, in the county of Butte, in said State, at the end of the seventy-seventh and $\frac{6}{10}$ mile.

BENJAMIN B. REDDING.

388 Subscribed and sworn to before me this twelfth day of December, A. D. 1871.

W. B. BROWN,
County Clerk.

[County court seal Sacramento County, Cal.]
[5 cent int. rev. stamp.]

UNITED STATES LAND OFFICE,
Marysville, California, December 13th, 1871.

We hereby certify that we have carefully and critically examined the foregoing list of the lands claimed by the "Central Pacific Railroad Company," successor, by consolidation, to "The California and Oregon Railroad Company," under the grant to said California and Oregon Railroad Company by the acts of Congress entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific Railroad, in California, to Portland, in Oregon," approved July 25th, 1866, and the act amendatory thereof, approved June 25th, 1868, and selected by Mr. Benjamin B. Redding, the duly authorized land
389 agent of said "Central Pacific Railroad Company," successor, by consolidation, to the said "The California and Oregon Railroad Company," and we have tested the accuracy of said list by the plats and records of this office and we find the same to be correct. And we further certify that the filing of said list is allowed and approved, and that the whole of said lands are surveyed public lands of the United States, and within the limits of twenty (20) miles on each side, and that the same are not, nor is any part thereof, returned and denominated as mineral lands or land, nor claimed as swamp land; neither are there any homesteads, pre-

emptions, State, nor other valid claim to any portion of said lands on file or record in this office.

We further certify that the foregoing list shows an assessment of the fees payable to us allowed by the act of Congress approved July 1st, 1864, and contemplated by the instructions dated January 24th, 1867, and addressed by the Commissioner of the General Land Office to the
390 register and receivers of United States land office, and that the said Central Pacific Railroad Company, successor, by consolidation, to "The California and Oregon Railroad Company," has paid to the undersigned, the receiver, the full sum of two thousand four hundred and forty-nine $\frac{50}{100}$ ($2,449 $\frac{50}{100}$) dollars, in full payment and discharge of said fees.

L. B. AYER,
Register of the United States Land Office, Marysville, California.
E. TEEGARDEN,
Receiver of the United States Land Office, Marysville, California.

(Endorsed:) Opened by stipulation of counsel and refiled August 13, 1885. L. S. B. Sawyer, clerk.

391 RESPONDENT'S EXHIBIT 9.

F. T. C. J. D. S.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
March 30, 1881.

I, J. A. Williamson, Commissioner of the General Land Office, do hereby certify that the annexed abstract copy of list of selections, January 1, 1872, by the Central Pacific Railroad Company is a true and literal exemplification of that portion of the original list on file to which it relates.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.] J. A. WILLIAMSON,
Commissioner of General Land Office.

392 OFFICE OF THE CENTRAL PACIFIC RAILROAD COMPANY,
Sacramento, California, December 29th, 1871.

I, Edward H. Miller, jr., secretary of the "Central Pacific Railroad Company" (successor, by consolidation, to "The Central Pacific Railroad Company of California" and "The California and Oregon Railroad Company"), hereby certify that Benjamin B. Redding was appointed land agent of the said "Central Pacific Railroad Company," successor, by consolidation, to the said "California and Oregon Railroad Company," by the board of directors of said company at a regular meeting held on the twenty-second (22nd) day of August, A. D. 1870, and that since that time he has been continuously, and is now, the land agent of the said company.

In testimony whereof I have hereunto set my hand and affixed the corporate seal of said company this 29th day of December, A. D. 1871.

[SEAL.] EDWARD H. MILLER, JR.,
Secretary of the Central Pacific Railroad Company.

393 *List of lands in the Marysville land district, California, selected by the "Central Pacific Railroad Company," successor, by consolidation, to "The California and Oregon Railroad Company."*

The undersigned, the duly authorized land agent of the "Central Pacific Railroad Company" (successor, by consolidation, to "The Central Pacific Railroad Company of California" and "The California and Oregon Railroad Company"), under and by virtue of the act of Congress entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific Railroad, in California, to Portland, in Oregon, approved July 25th, 1866, and the act amendatory thereof, approved June 25th, 1868, and under and in pursuance of the rules and regulations prescribed by the Commissioner of the General Land Office, and contained in a circular dated January 24th, 1867, hereby makes and files the following list of selections of public land claimed by the said "Central Pacific Railroad Company," successor to the said "The California and Oregon Railroad Company," as inuring to it, and to
394 which it is entitled, under and by virtue of the grant and provisions of the said acts of Congress, and the location of the line of route of the said railroad and telegraph of said "California and Oregon Railroad Company," being for a section of seventy-seven and $\frac{6}{10}$ miles of said road, commencing at a point in the town of Roseville, in the county of Placer, State of California, where said railroad and telegraph line connects with the Central Pacific Railroad and terminating at or near the town of Chico, in the county of Butte, in said State, at the end of the seventy-seventh and $\frac{6}{10}$ mile, which said section of road and telegraph has been duly accepted by the President of the United States, as provided in the aforesaid acts of Congress, the selections being particularly described as follows, and being within the exterior ten (10) mile limits allowed for indemnity on each side of the line of route of said railroad.

BENJAMIN B. REDDING,
Land Agent of the Central Pacific Railroad Company.

395 Parts of sections.	Sec's.	Tp.	R.	Areas.	R. & R's fees.
				Acres.	
Indemnity selections—30-mile limits.					
* * * * * * *	*	*	*	*	*
All of	7	17 N.	2 W.	652.40	$8.00
SW. ¼ and lots 1 & 2 of NW. ¼	15	17 N.	2 W.	268.44	3.50
S. ½ and lots 1, 2, 3 and 4	17	17 N.	2 W.	533.24	6.50
All of	19	17 N.	2 W.	645.98	8.00
E. ½ and SW. ¼	27	17 N.	2 W.	560.00	7.00
E. ½ of NW. ¼	27				
All of	29	17 N.	2 W.	640.00	8.00
All of	31	17 N.	2 W.	641.60	8.00
N. ½ of NW. ¼ and SW. ¼ of NW. ¼	33	17 N.	2 W.	320.00	4.00
NW. ¼ of SW. ¼ and S. ½ of SW. ¼	33				
S. ½ of SE. ¼	33				
NW. ¼ of NW. ¼ and lot 1 of SW. ¼	35	17 N.	2 W.	92.28	1.00
* * * * * * *	*	*	*	*	*
All of	1	17 N.	3 W.	640.00	8.00
All of	3	17 N.	3 W.	639.78	8.00
S. ½	5	17 N.	3 W.	320.00	4.00
All of	7	17 N.	3 W.	636.58	8.00
W. ½	9	17 N.	3 W.	480.00	6.00
N. ½ of NE. ¼ and S. ½ of SE. ¼	9				
All of	11	17 N.	3 W.	640.00	8.00
All of	13	17 N.	3 W.	640.00	8.00
All of	15	17 N.	3 W.	640.00	8.00
All of	17	17 N.	3 W.	640.00	8.00

396 STATE OF CALIFORNIA,
County of Sacramento, ss:

I, Benjamin B. Redding, being duly sworn, depose and say, that I am the land agent of the "Central Pacific Railroad Company," successor, by consolidation, to "The Central Pacific Railroad Company of California" and "The California and Oregon Railroad Company;" that the foregoing list of lands, which I hereby select, is a correct list of a portion of the public lands claimed by the said "Central Pacific Railroad Company," successor to the said "The California and Oregon Railroad Company," for which a grant of land was made by the acts of Congress entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific Railroad, in California, to Portland, in Oregon, approved July 25th, 1866, and the act amendatory thereof, approved June 25th, 1868; that the said lands are vacant, unappropriated, and are not interdicted, mineral, nor reserved lands, and are of the character contemplated by the grant, lying within the limits of the ex-
397 terior ten (10) miles, indemnity limits, on each side of the line of route of said road, being for a section of seventy-seven and $\frac{6}{10}$ miles of said road, commencing at a point in the town of Roseville, in the county of Placer, State of California, where said railroad and telegraph line connects with the Central Pacific Railroad and terminating at or near the town of Chico, in the county of Butte, in said State, at the end of the seventy-seventh and $\frac{6}{10}$ mile.

BENJAMIN B. REDDING.

Subscribed and sworn to before me this 30th day of December, A. D. 1871.

W. B. C. BROWN,
County Clerk.

UNITED STATES LAND OFFICE,
Marysville, California, January 1st, 1872.

We hereby certify that we have carefully and critically examined the foregoing list of the lands claimed by the "Central Pacific Railroad Company," successor, by consolidation, to "The California and Oregon Railroad Company," under the grant to said "California and Oregon
398 Railroad Company," by the acts of Congress entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific Railroad, in California, to Portland, in Oregon," approved July 25th, 1866, and the act amendatory thereof, approved June 25th, 1868, and selected by Mr. Benjamin B. Redding, the duly authorized land agent of said "Central Pacific Railroad Company," successor, by consolidation, to the said "The California and Oregon Railroad Company," and we have tested the accuracy of said list by the plats and records of this office, and we find the same to be correct. And we further certify that the filing of said list is allowed and approved, and that the whole of said lands are surveyed public lands of the United States and within the limits of the exterior ten (10) miles on each side; and that the same are not, nor is there any part thereof, returned and denominated as mineral lands or land, nor claimed as swamp land, neither are there any

homesteads, pre-emptions, State, nor other valid claim to any por-
399 tion of said lands on file or record in this office. We further certify that the foregoing list shows an assessment of the fees payable to us, allowed by the act of Congress approved July 1st, 1864, and contemplated by the instructions dated January 24th, 1867, and addressed by the Commissioner of the General Land Office to the registers and receivers of United States land officers, and that the said "Central Pacific Railroad Company," successor, by consolidation, to "The California and Oregon Railroad Company," has paid to the undersigned, the receiver, the full sum of eight hundred and twenty-nine $\frac{50}{100}$ ($829\frac{50}{100}$) dollars, in full payment and discharge of said fees.

L. B. AYER,
Register of the United States Land Office, Marysville, California.
E. TEEGARDEN,
Receiver of United States Land Office, Marysville, California.

(Endorsed:) U. S. circuit ct., Cal. U. S. v. C. P. R. R. Co.
400 976. Respondent's Exhibit 9. Opened by stipulation of counsel and refiled August 13, 1885. L. S. B. Sawyer, clerk.

401 RESPONDENT'S EXHIBIT 10.

F. T. C. J. D. S.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
March 30, 1881.

I, J. A. Williamson, Commissioner of the General Land Office, do hereby certify that the annexed abstract copy of list numbered one of Central Pacific Railroad lands is a true and literal exemplification of that portion of the original approved list to which it relates.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.]
J. A. WILLIAMSON,
Commissioner of General Land Office.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
March 2nd, 1872.

Whereas by the acts of Congress approved July 25th, 1866, June 25th, 1868, and April 10th, 1869, "to aid in the construction of a rail-
402 road and telegraph line from the Central Pacific Railroad in California, to Portland, in Oregon," authority is given to the "California and Oregon Railroad Company, its associates, successors, and assigns, a corporation existing under the laws of the State of California, to construct a railroad and telegraph line," under certain conditions and stipulations as expressed in said acts, and provision is made for granting to the said company "every alternate section of public land not

mineral, designated by odd numbers, to the amount of twenty alternate sections per mile (ten on each side) of said railroad line;"

And whereas it is further enacted in said section that "when any of said alternate sections or parts of sections shall be found to have been granted, sold, reserved, occupied by homestead settlers, pre-empted, or otherwise disposed of, other lands, designated as aforesaid, shall be selected by said company in lieu thereof, under direction of the Secretary of the Interior, in alternate sections designated by odd numbers as aforesaid, nearest to and not more than ten miles beyond the limits of said first-named al-
403 ternate sections;"

And whereas an official statement, bearing date January 3d, 1871, from the Secretary of the Interior, has been filed in the General Land Office showing that the commissioners appointed by the President under provisions of the fourth section of the first-named act have reported to him that the said "California and Oregon Railroad and Telegraph Line, commencing at a point in the town of Roseville, in the county of Placer, State of California, thence through the city of Marysville to the town of Chico, in said State, a distance of seventy-seven miles and six-tenths of a mile, has been constructed and fully completed and equipped in the manner prescribed by the acts relative thereto;"

And whereas by articles of agreement entered into under the laws of the State of California, between the said "California and Oregon Railroad Company" and the "Central Pacific Railroad Company," said companies were amalgamated and consolidated under the name of the "Central Pacific Railroad Company," upon the twentieth day of August, 1870,
404 as shown by a certified copy of the articles of consolidation filed in the General Land Office on the first day of March, 1872, by Henry Beard, attorney for said Central Pacific Railroad Company;

And whereas certain tracts of land have been selected by Benjamin B. Redding, the agent of the said Central Pacific Railroad Company, successor of the said California and Oregon Railroad Company, as shown by his original lists of selections, dated December the 12th & 30th, 1871, and certified to under dates of December 13th, 1871, and January 1st, 1872, by the register and receiver of Marysville, California; and the president of the said Central Pacific Railroad Company, successor of the "California and Oregon Railroad Company," has applied for a conveyance of the title to said lands granted by the aforesaid acts of Congress to the said "California and Oregon Railroad Company, its associates, successors, and assigns," the said lands being described as follows, to wit:

405 North of base line and east of Mt. Diablo meridian, California, Central Pacific Railroad Company, successor to the California and Oregon Railroad Company.

Railroad list.

No.	Parts of section.	Section.	Township.	Range.	Acres.	Remarks.
	* * * * * *	*	* *	* *	*	* *
	20 mile limits—Marysville district.	.....	N.	W.	.....	
	Lots 3 & 4 of NE. ¼, & SE. ¼	15	17	2	269. 32	
	E. ½ of NE. ¼ & lots 2 & 3 of SE. ¼	35	"	"	184. 56	
	* * * * * * *	*	*	*	* *	* *
	Indemnity selections—30 mile limits	N.	W.	.....	.....	
	* * * * * * *	*	*	*	* *	* *
	All of	7	17	2	652. 40	
	SW. ¼, lots 1 & 2 of NW. ¼	15	"	"	268. 44	
	S. ½ sec., lots 1, 2, 3, & 4	17	"	"	533. 24	
	All of	19	"	"	645. 98	
	E. ½ sec. & SW. ¼ & SE. ¼ of NW. ¼	27	"	"	520. 00	
	All of	29	"	"	640. 00	
	All of	31	"	"	641. 60	
	N. ½ NW. ¼, SW. ¼ NW. ¼, NW. ¼ SW. ¼, S. ½ SW. ¼ & S. ½ of SE. ¼	33	"	"	320. 00	
	NW. ¼ of NW. ¼ & lot 1 of SW. ¼	35	17	2	92. 28	
406	All of	1	17	3	640. 00	
	All of	3	"	"	639. 78	
	S. ½ of sec	5	"	"	320. 00	
	All of	7	"	"	636. 58	
	W. ½ sec., N. ½ of NE. ¼ & S. ½ of SE. ¼	9	"	"	480. 00	
	All of	11	"	"	640. 00	
	All of	13	"	"	640. 00	
	All of	15	"	"	640. 00	
	All of	17	"	"	640. 00	
	* * * * * *	*	*	*	* *	* *

Now, therefore, as it has been found on a careful examination of the foregoing selections in connection with the authenticated map, on file in the General Land Office, of the survey of the "California and Oregon Railroad" route, that the foregoing lands fall within twenty and thirty miles lateral limits of said route, and that the said selections, so far as the returns to the General Land Office show, are free from conflict, it is hereby recommended that the tracts in the foregoing be approved and carried into patent, as the lands falling within the grant by the acts aforesaid, to the said Central Pacific Railroad Company, successor to the said
407 California and Oregon Railroad Company, excluding, however, from the approval and from the transfer in the patent that may issue "all mineral lands," should any such be found in the tracts aforesaid; but this exclusion, according to the terms of the statute, "shall not be construed to include coal and iron land."

WILLIS DRUMMOND,
Commissioner.

To the Hon. C. DELANO,
Secretary of the Interior.

DEPARTMENT OF THE INTERIOR,
Washington City, D. C., 4th Mar., 1872.

Approved.

C. DELANO,
Secretary.

(Endorsed:) U. S. circuit ct., Cal. U. S. vs. C. P. R. R. Co. 1976. Respondent's Exhibit 10. Opened by stipulation of counsel and refiled August 13, 1885. L. S. B. Sawyer, clerk.

408 RESPONDENT'S EXHIBIT 11.

U. S. circuit ct., Cal.

U. S.
v.
C. P. R. R. Co. } 1976.

Respondent's Exhibit 11.—*Land notice.*

REGISTER'S OFFICE, U. S. LAND OFFICE,
Marysville (California), 25 August, 1873.

Whereas the release of the following lands from the suspension of 22 January, 1873, has been ordered by the U. S. surveyor-general for California, in his letters of the respective dates of 28 July and 18 August, 1873, viz: Secs. 3, 10, 15, 6, 19, 30, 31, and 32, and SE. ¼ of SW. ¼, N. ½ of SW. ¼, S. ½ of NW. ¼, and E. ½, sec. 4; SW. ¼ of NW. ¼, and NW. ¼ SW. ¼ of sec. 5; tract NW. ¼, NW. ¼ of NE. ¼, lots 3 and 4, and NE. ¼ of SW. ¼ of sec. 7; E. ½ of sec. 9; N. ½ of sec. 14; E ½ of SE. ¼ and NE. ¼ of sec. 16; S. ½ of sec. 18; S. ½ of SW. ¼ and NW. ¼ of SW. ¼ of sec. 20; E. ½ of NE. ¼, sec. 21; E. ½ of SE. ¼ and N. ½ of sec. 22; W. ½ of sec. 23; E. ½ of NW. ¼, NW. ¼ of NW. ¼, and NE. ¼ of SW.
409 ¼ of sec. 26; NE. ¼ of NE. ¼ of sec. 27; SW. ¼ of sec. 28; SE. ¼, SW. ¼ of NE. ¼ and W. ½ of sec. 29; SE. ¼ and W. ½ of sec. 33; W. ½ of SW. ¼ and SE. ¼ of SW. ¼ of sec. 34; SE. ¼ of NW. ¼, NE. ¼ and SE. ¼, SE. ¼ of sec. 35; lots 1, 2, 3, and 4, and S. ½ of sec. 36 of township 16 north, range 2 west, Mt. Diablo meridian.

Tp. 17 N., R. 2 W., Mt. Diablo m'd'n.
" 16 " " 4 " " " "
" 17 " " 4 " " " "
" 17 " " 5 " " " "
E. ½ " 16 " " 3 " " " "

Secs. 22, 23, 24, 25, 26, 27, 34, 35, and 36 of Tp. 17 N., R. 3 W., Mt. D'blo m'd'n.

The NE. ¼ and W. ½ of Tp. 17 N., R. 3 W., M. D. M.
" W. ½ of Tp. 16 N., R. 3 W., M. D. M.

I therefore, in accordance with law, hereby give notice that all of said lands not heretofore disposed of will, on and after the 1st day of October, 1873, be restored to the status they were in prior to said suspension, and be subject to disposal under the public land laws of the United States.

L. B. AYER,
Register.

410 U. S. LAND OFFICE,
Marysville, Cal.

STATE OF CALIFORNIA,
County of Yuba, ss:

C. D. Dawson, being duly sworn, deposes and says: That he is the proprietor of the "Marysville Daily Appeal," a newspaper printed and published in the city of Marysville, county and State aforesaid, and that the

above land notice, of which a copy is hereto attached, was published in said newspaper from August 25th, 1873, to September 25th, 1873—4 weeks.

C. D. DAWSON.

Subscribed and sworn to before me March 30th, A. D. 1881.

J. C. BRADLEY,
Register U. S. Land Office, Marysville, Cal.

(Endorsed:) Opened by stipulation of counsel and re-filed August 13, 1885. L. S. B. Sawyer, clerk.

RESPONDENT'S EXHIBIT 12.

U. S. circuit court, Cal.

U. S.
v.
C. P. R. R. Co. } 1976.

411 *Respondent's Exhibit* 12.

T. T. C. J. D. S.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
March 30, 1881.

I, J. A. Williamson, Commissioner of the General Land Office, do hereby certify that the annexed abstract copy of list of selections, October 30, 1874, by the Central Pacific Railroad Company, is a true and literal exemplification of that portion of the original list on file to which it relates.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.]

J. A. WILLIAMSON,
Commissioner of General Land Office.

412 OFFICE OF THE CENTRAL PACIFIC RAILROAD COMPANY,
San Francisco, California, October 30th, 1874.

I, Edward H. Miller, jr., secretary of the "Central Pacific Railroad Company" (successor, by consolidation, to "The Central Pacific Railroad Company of California," and the California and Oregon Railroad Company"), hereby certify that Benjamin B. Redding was appointed land agent of the said "Central Pacific Railroad Company," successor by consolidation to the said "The California and Oregon Railroad Company," by the board of directors of said company, at a regular meeting held on the twenty-second (22d) day of August, A. D. 1870, and that since that time he has been continuously and is now the land agent of the said company.

In testimony whereof I have hereunto set my hand and affixed the corporate seal of said company this 30th day of October, A. D. 1874.

[SEAL.]

EDWARD H. MILLER, JR.,
Secretary of the Central Pacific Railroad Company."

413 *List of lands in the Marysville land district, California, selected by the "Central Pacific Railroad Company," successor, by consolidation, to "The California and Oregon Railroad Company."*

The undersigned, the duly authorized land agent of the "Central Pacific Railroad Company" (successor, by consolidation, to "The Central Pacific Railroad Company, of California," and "The California and Oregon Railroad Company"), under and by virtue of the acts of Congress entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the "Central Pacific Railroad in California to Portland, in Oregon," approved July 25th, 1866, and the act amendatory thereof, approved June 25th, 1868, and under and in pursuance of the rules and regulations prescribed by the Commissioner of the General Land Office, and contained in a circular dated January 24th, 1867, hereby makes and files the following list of selections of public land claimed by
414 the said "Central Pacific Railroad Company," successor to the said "The California and Oregon Railroad Company," as inuring to it, and to which it is entitled, under and by virtue of the grant and provisions of the said acts of Congress, and the location of the line of route of the said railroad and telegraph of said California and Oregon Railroad Company," being for a section of ninety-seven and $\frac{6}{10}$th miles of said road, commencing at a point in the town of Roseville, in the county of Placer, State of California, where said railroad and telegraph line connects with the Central Pacific Railroad, and terminating at a point twenty (20) miles beyond the town of Chico, in the county of Butte, in said State, at the end of the ninety-seventh and $\frac{6}{10}$ mile, which said section of road and telegraph line has been duly accepted by the President of the United States as provided in the aforesaid act of Congress.
415 The selections being particularly described as follows and being within the exterior ten (10) mile limits allowed for indemnity on each side of the line of route of said railroad.

Part of section.	No. of section.	No. of town.	No. of range.	Area.	Fee of reg'r and rec'r.
				Acres.	
Frac'l E. ½	3	16 N.	2 W.	319.61	$4.00
Lot 4 of NW. ¼	3	"	"	39.33	".50
SW. ¼ of NW. ¼	5	16 N.	2 W.	40.00	".50
NW. ¼ of SW. ¼	"	"	"	40.00	".50
Frac. NW. ¼	7	16 N.	2 W.	154.05	2.00
NW. ¼ of NE. ¼	"	"	"	40.00	".50
NE. ¼ of SW. ¼	"	"	"	40.00	".50
Lot 3 of SW. ¼	"	"	"	37.01	".50
Lot 4 of SW. ¼	"	"	"	37.00	".50
E. ½	9	16 N.	2 W.	320.00	4.00
All of	15	16 N.	2 W.	640.00	8.00
All of frac.	19	16 N.	2 W.	628.14	8.00
E. ½ of NE. ¼	21	16 N.	2 W.	80.00	1.00
416 NW. ¼	23	"	"	160.00	2.00
S. ½	29	16 N.	2 W.	320.00	4.00
NW. ¼	"	"	"	160.00	2.00
SW. ¼ of NE. ¼	"	"	"	40.00	".50
All of frac.	31	16 N.	2 W.	628.06	8.00
SE. ¼ of NW. ¼	35	16 N.	2 W.	40.00	".50
NE. ¼ of SW. ¼	"	"	"	40.00	".50
All of	1	16 N.	3 W.	640.00	8.00
All of	3	16 N.	3 W.	638.40	8.00
All of	11	16 N.	3 W.	640.00	8.00
N. ½	13	16 N.	3 W.	320.00	4.00
SW. ¼	"	"	"	160.00	2.00
E. ½ of SE. ¼	"	"	"	80.00	1.00

Part of section.	No. of section.	No. of town.	No. of range.	Area.	Fee of reg'r and rec'r.
				Acres.	
NW. ¼ of SE. ¼	13	16 N.	3 W.	40.00	$1.50
All of	15	16 N.	3 W.	640.00	8.00
N. ½	23	16 N.	3 W.	320.00	4.00
SE. ¼	"	"	"	160.00	2.00
W. ½ of SW. ¼	"	"	"	80.00	1.00
417 NE. ¼ of SW. ¼	"	"	"	40.00	.50
All of	25	16 N.	3 W.	640.00	8.00
All of	27	16 N.	3 W.	640.00	8.00
All of	35	16 N.	3 W.	640.00	8.00
NW. ¼	23	17 N.	3 W.	160.00	2.00
All of	25	17 N.	3 W.	640.00	8.00
SW. ¼	27	17 N.	3 W.	160.00	2.00
W. ½	35	17 N.	3 W.	320.00	4.00

418 STATE OF CALIFORNIA,
City and County of San Francisco, ss:

I, Benjamin B. Redding, being duly sworn, depose and say that I am the land agent of the Central Pacific Railroad Company (successor by consolidation to the "Central Pacific Railroad Company of California" and the "California and Oregon Railroad Company"), that the foregoing list of lands which I hereby select is a correct list of a portion of the public lands claimed by the said "Central Pacific Railroad Company," successors to the said "The California and Oregon Railroad Company," for which a grant of land was made by the acts of Congress entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific Railroad, in California, to Portland, in Oregon," approved July 25th, 1866, and the act amendatory thereof, approved June 25th, 1868, that the said lands are vacant, unappropriated, and are
419 not interdicted mineral nor reserved lands, and are of the character contemplated by the grant, lying within the limits of the exterior ten (10) miles indemnity limits on each side of the line of route of said road, being for a section of ninety-seven and $\frac{6}{0}$th miles of said road, commencing at a point in the town of Roseville, in the county of Placer, State of California, where said railroad and telegraph line connects with the Central Pacific Railroad, and terminating at a point twenty (20) miles beyond the town of Chico, in the county of Butte, in said State, at the end of the ninety-seventh and $\frac{6}{10}$th mile.

BENJAMIN B. REDDING.

Subscribed and sworn to before me this 30th day of October, A. D. 1874.
[SEAL.] CHARLES J. TORBET,
Notary Public in and for the City and County of San Francisco, State of California.

420 I, William Harney, county clerk of the city and county of San Francisco and ex officio clerk of the county court, probate court, municipal criminal court, and of the third, fourth, twelfth, fifteenth, and nineteenth judicial district courts of the State of California, in and for said city and county (all of which courts are courts of record, having seals), do hereby certify that Charles J. Torbet, whose name is subscribed to the annexed affidavit, was at the time of signing the same a notary public in and for said city and county, duly commissioned and qualified, and authorized

by law to take such affidavit, and full faith and credit are due to all his official acts as such.

And I do further certify that I am well acquainted with the handwriting of the said Charles J. Torbet, and verily believe that the signature to the said annexed affidavit is genuine.

421 In witness whereof I have hereunto set my hand and affixed the seal of the said district court of the 12th judicial district of the State of California in and for the city and county of San Francisco, at my office in said city and county, this eighteenth day of December, A. D. 1874.

[SEAL.] WILLIAM HARNEY,

County Clerk of the City and County of San Francisco, and ex officio Clerk of the District Court of the 12th Judicial District of the State of California, in and for the City and County of San Francisco.

UNITED STATES LAND OFFICE,
Marysville, California, A. D. 1874.

We hereby certify that we have carefully and critically examined the foregoing list of the lands claimed by the "Central Pacific Railroad Company," successor by consolidation to the "California and Oregon Railroad Company," under the grant to said "California and Oregon Rail-
422 road Company" by the acts of Congress entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific Railroad in California, to Portland, in Oregon," approved July 25th, 1866, and the act amendatory thereof, approved June 25th, 1868, and selected by Benjamin B. Redding, the duly authorized land agent of said Central Pacific Railroad Company, successor by consolidation to the said "The California and Oregon Railroad Company," and we have tested the accuracy of said list by the plats and records of this office, and we find the same to be correct; and we further certify that the filing of said list is allowed and approved, and that the whole of said lands are surveyed public lands of the United States, and within the limits of the exterior ten (10) miles on each side; and that the same are not, nor is there any part thereof, returned and denominated as mineral lands
423 or land, nor claimed as swamp land. Neither are there any homesteads, pre-emption, State, nor other valid claim to any portion of said lands on file or record in this office.

We further certify that the foregoing list shows an assessment of the fees payable to us allowed by the act of Congress, approved July 1st, 1864, and contemplated by the instructions dated January 24th, 1867, and addressed by the Commissioner of the General Land Office to the registers and receivers of United States land offices, and that the said "Central Pacific Railroad Company," successor by consolidation to "The California and Oregon Railroad Company, has paid to the undersigned, the receiver, the full sum of twelve hundred and five ($1,205) dollars, in full payment and discharge of said fees.

L. B. AYER,
Register of United States Land Office, Marysville, California.
ELI TEEGARDEN,
Receiver of United States Land Office, Marysville, California.

424 (Endorsed:) Opened by stipulation of counsel, and re-filed August 13, 1885. L. S. B. Sawyer, clerk.

425 RESPONDENT'S EXHIBIT 13.

U. S. circuit court, Cal.

U. S.
v.
C. P. R. R. Co. } 1976.

Respondent's Exhibit 13.

F. T. C. J. D. S.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
March 30, 1881.

I, J. A. Williamson, Commissioner of the General Land Office, do hereby certify that the annexed abstract copy of list numbered two of the Central Pacific Railroad Lands, is a true and literal exemplification of that portion of the original approved list to which it relates.

In testimony whereof, I have hereunto subscribed my name, and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.]

J. A. WILLIAMSON,
Commissioner of General Land Office.

426 DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
February 5th, 1875.

Whereas, by the acts of Congress approved July 25th, 1866, June 25th, 1868, and April 10th, 1869, "to aid in the construction of a railroad and telegraph line, from the Central Pacific Railroad, in California, to Portland, in Oregon," authority is given to the "California and Oregon Railroad Company, its associates, successors and assigns, a corporation existing under the laws of the State of California, to construct a railroad and telegraph line," under certain conditions and stipulations as expressed in said acts, and provision is made for granting to the said company "every alternate section of public land not mineral, designated by odd numbers, to the amount of twenty alternate sections per mile (ten on each side) of said railroad line:"

And whereas, it is further enacted in said acts that "when any of said alternate sections or parts of sections shall be found to have been granted, sold, reserved, occupied by homestead settlers, pre-empted, or other-
427 wise disposed of, other lands, designated as aforesaid, shall be selected by said company in lieu thereof, under direction of the Secretary of the Interior, in alternate sections, designated by odd numbers as aforesaid, nearest to and not more than ten miles beyond the limits of said first-named alternate sections:"

And whereas official statements bearing dates January 3d, 1871, and January 29th, 1874, from the Secretary of the Interior, have been filed in the General Land Office, showing that the commissioners appointed by the President under provisions of the fourth section of the first-named act have reported to him that the said "California and Oregon Railroad and

Telegraph line, commencing at a point in the town of Roseville, in the county of Placer, State of California, thence through the city of Marysville to the ninety-seventh mile post in said State, a distance of ninety-seven miles and six-tenths of a mile, has been constructed and fully completed and equipped in the manner prescribed by the acts relative thereto."

And whereas by articles of agreement entered into under the laws
428 of the State of California between the said "California and Oregon Railroad Company" and the "Central Pacific Railroad Company," said companies were amalgamated and consolideted under the name of the "Central Pacific Railroad Company," upon the twentieth day of August, 1870, as shown by a certified copy of the articles of consolidation, filed in the General Land Office on the first day of March, 1872, by Henry Beard, attorney for said Central Pacific Railroad Company.

And whereas certain tracts of lands have been selected by Benjamin B. Redding, the agent of the said Central Pacific Railroad Company, successor of the said California and Oregon Railroad Company, as shown by his original lists of selections, dated October 30th and December 17th, 1874, and certified under same dates, respectively, by the register and receiver at Marysville, California, and the president of the said Central Pacific Railroad Company, successor of the "California and Oregon Railroad Company," has applied for a conveyance of the title to said
429 lands granted by the aforesaid acts of Congress to the said "California and Oregon Railroad Company," its associates, successors, and assigns. The said lands being described as follows, to wit:

North of base line and east of Mt. Diablo meridian, California, Central Pacific Railroad Company successor to the California and Oregon Railroad Company.

Railroad list.

No.	Parts of section.	Section.	Township.	Range.	Acres.	Remarks.
	20-mile limits—Marysville district.					
	* * * * * * * * *	*	*	*	*	
	Thirty-mile limits. Indemnity.					
			N & W			
	* * * * * * * * *	*	*	*	*	
	Lot 4 of NW. ¼ E. ½ Sec	3	16	2	358.94	
	SW. ¼ NW. ¼ & NW. ¼ SW. ¼	5	"	"	80	
	NW. ¼ NW. ¼ NE. ¼ NE. ¼ SW. ¼, & lots 3 & 4 of SW. ¼	7	"	"	308.06	
	E. ½ Sec	9	"	"	320	
	All	15	"	"	640	
	All	19	"	"	628.14	
	E. ½ NE. ¼	21	"	"	80	
	NW. ¼	23	"	"	160	
	SW. ¼ NE. ¼ NW. ¼ & S. ½ Sec	29	"	"	520	
	All	31	"	"	628.06	
430	NE. ¼ SW. ¼	35	"	"	40	
	All	1	16	3	640	
	All	3	"	"	638.40	
	All	11	"	"	640	
	NW. ¼ SE. ¼ E. ½ SE. ¼ SW. ¼ & N. ½	13	"	"	600	
	All	15	"	"	640	
	NE. ¼ SW. ¼ W. ½ SW. ¼ SE. ¼ & N. ½	23	"	"	600	
	All	25	"	"	640	
	All	27	"	"	640	
	All	35	"	"	640	
	NW. ¼	23	17	3	160	
	All	25	"	"	640	
	SW. ¼	27	"	"	160	
	W. ½	35	"	"	320	
	* * * * * * * * *	*	*	*	*	

Now, therefore, as it has been found, on a careful examination of the foregoing selections in connection with the authenticated map on file in the General Land Office of the survey of the California and Oregon Railroad route, that the foregoing selections of lands fall within twenty and thirty miles lateral limits of said route, and that the said selections, so far as the returns to the General Land Office show, are free from
431 conflict, it is hereby recommended that the tracts in the foregoing be approved and carried into patent, as the lands falling within the grant by the acts aforesaid to the said Central Pacific Railroad Company, successor to the said California and Oregon Railroad Company, excluding, however, from the approval and from the transfer in the patent that may issue, "all mineral lands," should any such be found in the tracts aforesaid; but this exclusion, according to the terms of the statute, "shall not be construed to include coal and iron land."

S. S. BURDETT,
Commissioner.

Hon. C. DELANO,
Secretary of the Interior.

DEPARTMENT OF THE INTERIOR,
Washington City, D. C., 9th Feb., 1875.

Approved:

C. DELANO,
Secretary.

432 (Endorsed:) Opened by stipulation of counsel, and refiled August 13, 1885. L. S. B. Sawyer, clerk.

433 RESPONDENT'S EXHIBIT 14.

F. T. C. J. D. S.

U. S. circuit court, Cal.

U. S.
v.
C. P. R. R. Co. } 1976.

Respondent's Exhibit 14.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
March 30, 1881.

I, J. A. Williamson, Commissioner of the General Land Office, do hereby certify that the annexed letter, dated April 10, 1875, is a true and literal exemplification of the original on file in this office.

In testimony whereof I have hereunto subscribed my name and caused the seal of this office to be affixed, at the city of Washington, on the day and year above written.

[SEAL.]

J. A. WILLIAMSON,
Commissioner of General Land Office.

434 W. H. S.] DEPARTMENT OF THE INTERIOR,
Washington, D. C., 10th April, 1875.

SIR: I have examined the case of the State of California vs. The California and Oregon Railroad Company, involving title to the E. ½ of sec. 3, E. ½ of sec. 9, and W. ½ of sec. 15, T. 16, R. 2 W., Marysville, California, on appeal from your decision of 28th February, 1874. The railroad company claims under the act of 25th July, 1866, making a grant to aid in its construction. The State claims under the acts of 2d July, 1862, and 3d March, 1871, under applications dated 21 August, 1873, and presented 1st October, 1873.

The right of the railroad company to the lands in dispute is clear and unequivocal, unless they were included in the alleged private land claim of Manuel Diaz at the time the line of the road was definitely located. The said Diaz claim was invalid, and was rejected by the Board of Land Commissioners, the circuit court of California, and the Supreme
435 Court of the United States; by the last, after the definite location of said company's road.

It is now argued that the railroad company is not entitled to these lands because they were included within the claimed limits of said private land claim. They are not needed to satisfy said claim, for that has been declared to be no grant by the highest judicial tribunal known to our laws. The ground of their alleged exclusion from the grant to the railroad company is a technical one, and should be fairly made out by the weight of evidence. I do not think that it has been thus made out. The evidence is shadowy and unsatisfactory, and does not convince me that the lands were within the claimed limits of the Diaz claim.

I therefore reverse your decision, and affirm that of the local officers. The papers transmitted with your letter of the 10th July last are herewith returned.

I am, sir, very respectfully, your ob't servant,

B. R. COWEN,
Acting Secretary.

436 Hon. S. S. BURDETT,
Comm'r Gen. Land Office.

(Endorsed:) Opened by stipulation of counsel and refiled August 13, 1885. L. S. B. Sawyer, clerk

437 EXHIBIT 15.

No. 30.

CALIFORNIA AND OREGON RAILROAD COMPANY
LAND DEPARTMENT.

The California and Oregon Railroad Company having this day sold to John H. Rowland, of Colusa County, California, the following described tract of land, to wit: The north one-half of the northwest quarter (N. ½ of NW. ¼) of section No. thirty-five (35), in township seventeen (17) north, of range two (2) west, Mount Diablo base and meridian, containing, according to the United States surveys, eighty (80) acres, at the rate of one (1.25) $\frac{25}{100}$ dollars per acre, and the said , having paid the sum

of one hundred ($100) dollars in United States currency, being the full amount of the purchase money therefor; the said California and Oregon Railroad Company hereby agree to execute and deliver to the said John H. Rowland, his heirs and assigns, after they shall have received a patent therefor from the United States, and within thirty days after a demand thereof by the said purchaser, and upon the surrender of this agreement, a deed in fee-simple for the conveyance of said premises to the said purchaser, John H. Rowland, his heirs and assigns, and also reserving all claim of the United States to the same as mineral land, and in the meantime this agreement shall entitle the said purchaser to the full possession and ocupancy of said premises.

438 In testimony whereof the said company have caused this agreement to be signed by their secretary and land agent, at Sacramento, this seventh day of January, A. D. 1869.

[5. cts revenue stamp, cancelled.]

B. B. REDDING, *Land Agent.*
E. MILLER, Jr., *Secretary.*
J. H. ROWLAND. [SEAL.]

I, J. H. Rowland, the within named purchaser, for and in consideration of two hundred dollars to me in hand paid, do hereby sell, assign, and transfer all my right, title, interest, and claim in and to the within described tract or parcel of land, and the within contract unto W. R. Merrill, heirs, and assigns forever.

Given under my hand and seal this 14th day of January, A. D. 1869.

J. H. ROWLAND. [SEAL.]

STATE OF CALIFORNIA,
County of Colusa, ss:

On this 14th day of January, A. D. one thousand eight hundred and sixty-nine, before me, Jackson Hart, county clerk, in and for said State and county, personally appeared the within named Henry Rowland, whose name is subscribed to the foregoing instrument as a party thereto, personally known to me to be the individual described in and who executed the foregoing instrument, and he then and there acknowl-

439 edged to me that he executed the same freely and voluntarily, and for the uses and purposes therein mentioned.

In witness whereof I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

[SEAL.]

JACKSON HART, *Co. Clerk,*
By J. B. DE JARNATT, *D. C.*

Filed Jan. 14th, 1869, at 9 o'clock a. m., and recorded in Book "A" agreements, Colusa Co. Records, page 76.

J. HART, *Recorder,*
By J. B. DE JARNATT, *D. C.*

STATE OF CALIFORNIA,
County of Colusa, ss:

I, J. B. De Jarnatt, county clerk and ex officio county recorder in and for the county of Colusa, State of California, do hereby certify that I have compared the foregoing copy of contract between California and Ore-

gon Railroad Company and John H. Rowland, and of the endorsements thereupon, with the original records of the same remaining in this office, and that the same are correct transcripts therefrom, and of the whole of said original records.

In witness whereof I have hereunto set my hand and affixed my official seal this 1st day of August, 1882.

[SEAL.] J. B. DE JARNATT,

440 *County Clerk and ex officio County Recorder in and for Colusa County, Cal.*,

By S. S. RUSSELL,

Deputy Recorder.

(Endorsed:) Agreement to convey. The California & Oregon R. R. Co. with John H. Rowland. Dated January 7, 1869. U. S. circuit ct., Cal. U. S. v. C. P. R. Co., 1976. Respondent's Exhibit 15. Opened by stipulation of counsel and refiled August 13, 1885. L. S. B. Sawyer, clerk.

441 EXHIBIT 16.

No. 345.

To all to whom these presents shall come:

The Central Pacific Railroad Company, a corporation duly incorporated and organized under the laws of the State of California, and Mark Hopkins (successor to Charles Crocker) and Silas W. Sanderson, both of the city and county of San Francisco, and State of California, trustees of all the lands of the said Central Pacific Railroad Company lying in the States of California and Nevada, and the Territory of Utah, which remained unsold on the first day of October, A. D. 1870, send greeting:

Whereas on the first day of October, A. D. 1870, the said Central Pacific Railroad Company conveyed all its lands lying in the States of California and Nevada, and the Territory of Utah, then unsold, of which the lands hereinafter described were and are a part, to the said Charles Crocker and Silas W. Sanderson, to hold in trust as security for the payment of ten thousand bonds for the sum of one thousand dollars each, dated on the first day of October, A. D. 1870, and payable twenty

442 years from date, with interest at the rate of six per cent. per annum, made and issued by the said Central Pacific Railroad Company;

And whereas said deed of trust, among other matters, provided that the said Central Pacific Railroad Company shall have the sole and exclusive control and management of said lands, with full power to make sales of the same upon such terms and conditions as might from time to time be agreed upon between the said railroad company and the said trustees, and that when such sales had been made and the purchase money fully paid, the said company and the said trustees should unite in a conveyance in fee-simple of the lands so sold to the purchaser or purchasers thereof, which conveyance should absolutely and forever release the lands so conveyed from any and all lien or incumbrance, for or on account of said bonds, or any other debt or obligation of the said railroad company;

And whereas on the 14th day of August, 1871, Charles Crocker, one

of the trustees, being about to depart from the State of California, to be absent for an indefinite period, did resign his trust under said con-
443 veyance of the first of October, 1870; and whereas on the 15th day of August, 1871, the said Silas W. Sanderson, the remaining trustee under said conveyance, did, pursuant to the terms of his trust, nominate Mark Hopkins, of the city of Sacramento, and State of California, to fill the vacancy caused by the resignation of said Charles Crocker; and whereas on the 21st day of August, 1871, the board of directors of the said Central Pacific Railroad Company, pursuant to the terms of said trust, did ratify and approve said nomination, and did appoint said Mark Hopkins to fill said vacancy;

And whereas the said railroad company has sold the lands hereinafter described, pursuant to the foregoing conditions, to Patrick Hagan for the sum of twenty-four hundred ($2,400) dollars, which sum has been by him fully paid to the said Mark Hopkins and Silas W. Sanderson, trustees as aforesaid:

Now, therefore, in consideration of the premises, and the said sum of twenty-four hundred ($2,400) dollars, the receipt whereof is hereby acknowledged, the said Central Pacific Railroad Company, and the said Mark Hopkins and Silas W. Sanderson, trustees as aforesaid, do grant, bargain, sell, and convey to the said Patrick Hagan and his heirs
444 and assigns the following described tract of land, situate, lying, and being in the county of Colusa and State of California, to wit, the east half (E. ½) of section No. seventeen (17), in township seventen (17) north, of range three (3) west, Mount Diablo base and meridian, containing three hundred and twenty (320) acres, according to the United States surveys, together with all the privileges and appurtenances thereunto appertaining and belonging; reserving, however, all claim of the United States to the same as mineral land.

To have and to hold, the aforesaid Patrick Hagan, his heirs and assigns, to his and their use and behoof forever.

In testimony whereof the said Central Pacific Railroad Company has caused these presents to be signed by its president and secretary, and sealed with its corporate seal; and the said Mark Hopkins and Silas W. Sanderson, trustees, have subscribed their names and affixed their seals this thirtieth (30) day of January, A. D. 1877.

[SEAL.]

LELAND STANFORD,
Pres't C. P. R. R. Co.
E. H. MILLER, Jr.,
Sec'y C. P. R. R. Co.
MARK HOPKINS, [SEAL.]
S. W. SANDERSON, [SEAL.]
Trustees.

445 STATE OF CALIFORNIA,
City and County of San Francisco, ss:

On this thirtieth (30th) day of January, in the year one thousand eight hundred and seventy-seven (1877), before me, Charles J. Torbert, a notary public in and for said city and county of San Francisco, duly commissioned and qualified, personally appeared Leland Stanford, known to me to be the president, and E. H. Miller, jr., known to me to be the secretary

of the corporation that executed the within instrument and acknowledged to me that corporation executed the same. Also, at the same time and place, personally appeared before me Mark Hopkins and Silas W. Sanderson, known to me to be the persons and trustees described in and whose names are subscribed to the within instrument, and acknowledged to me that they executed the same as such trustees.

In witness whereof I have hereunto set my hand and affixed my official seal this thirtieth (30th) day of January, A. D. 1877.

[SEAL.] CHARLES J. TORBERT,
Notary Public in and for the City and County of San Francisco, State of California.

Rec'd of and filed for record at request of Patrick Hagain,
446 Feb. 13, 1877, at 55 min. past 11 a. m.

S. M. BISHOP, *Recorder*,
By W. H. MILES, *Deputy.*

Recorded in Book "K" of deeds, pages 305, 306 & 307, Colusa County Records, Feb'y 16th, 1877.

S. M. BISHOP, *Recorder*,
By C. A. NEWTON, *Deputy.*

STATE OF CALIFORNIA,
County, of Colusa ss:

I, J. B. De Jarnatt, county and ex officio county recorder in and for the county of Colusa, State of California, do hereby certify that I have compared the foregoing copy of deed from Central Pacific Railroad Company, and of the endorsements thereupon, with the original records of the same remaining in this office, and that the same are correct transcripts therefrom, and of the whole of said original records.

In witness whereof I have hereunto set my hand and affixed my official seal this 1st day of August, 1882.

[SEAL.] J. B. DE JARNATT,
County, Clerk and ex officio County Recorder in and for Colusa County, Cal.
By S. S. RUSSELL,
Deputy Recorder.

447 (Endorsed:) No. 345. Central Pacific Railroad Co. Mark Hopkins and Silas W. Sanderson to Patrick Hagan. Deed dated Jan'y 30, 1871. U. S. circuit ct., Cal. U. S. v. C. P. R. R. Co. Respondent's Exhibit 16. Opened by stipulation of counsel and refiled August 13, 1885. L. S. B. Sawyer, clerk.

448 EXHIBIT 17.

No. 520.

To all to whom these presents shall come:

The Central Pacific Railroad Company, a corporation duly incorporated and organized under the laws of the State of California, and Mark Hopkins (successor to Charles Crocker) and Silas W. Sanderson, both of

the city of Sacramento and State of California, trustees of all the lands of the said Central Pacific Railroad Company lying in the States of California and Nevada and the Territory of Utah which remained unsold on the first day of October, A. D. 1870, send greeting.

Whereas, on the first day of October, A. D. 1870, the said Central Pacific Railroad Company conveyed all its lands lying in the States of California and Nevada and the Territory of Utah, then unsold, of which the lands hereinafter described were and are a part, to the said Charles Crocker and Silas W. Sanderson, to hold in trust, as security for the payment of ten thousand bonds, for the sum of one thousand dollars each, dated on the first day of October, A. D. 1870, and payable twenty years from date, with interest at the rate of six per cent. per annum, made and issued by the said Central Pacific Railroad Company;

449 And whereas said deed of trust, among other matters, provided that the said Central Pacific Railroad Company should have the sole and exclusive control and management of said lands, with full power to make sales of the same upon such terms and conditions as might, from time to time, be agreed upon between the said railroad company and the said trustees; and that when such sales had been made and the purchase money fully paid the said company and the said trustees should unite in a conveyance in fee-simple of the lands so sold to the purchaser or purchasers thereof, which conveyance should absolutely and forever release the lands so conveyed from any and all lien or incumbrance for or on account of said bonds or any other debt or obligation of the said railroad company;

And whereas, on the 14th day of August, 1871, Charles Crocker, one of the trustees, being about to depart from the State of California, to be absent for an indefinite period, did resign his trust under said conveyance of the first of October, 1870; and whereas, on the 15th day of August, 1871, the said Silas W. Sanderson, the remaining trustee under

450 said conveyance, did, pursuant to the terms of his trust, nominate Mark Hopkins, of the city of Sacramento and State of California, to fill the vacancy caused by the resignation of said Charles Crocker; and whereas, on the 21st day of August, 1871, the board of directors of the said Central Pacific Railroad Company, pursuant to the terms of said trust, did ratify and approve said nomination, and did appoint said Mark Hopkins to fill said vacancy;

And whereas the said railroad company has sold the lands hereinafter described, pursuant to the foregoing conditions, to Henry N. Yates for the sum of four hundred and eighty ($480) dollars, which sum has been by him fully paid to the said Mark Hopkins and Silas W. Sanderson, trustees as aforesaid:

Now, therefore, in consideration of the premises and the sum of four hundred and eight' ($480) dollars, the receipt whereof is hereby acknowledged, the said Central Pacific Railroad Company and the said Mark Hopkins and Silas W. Sanderson, trustees as aforesaid, do grant, bargain, sell, and convey to the said Henry N. Yates and his heirs and assigns the following-described tract of land, situate,

451 lying, and being in the county of Colusa and State of California, to wit: The south half of the southeast quarter (S. ½ of SE. ¼) of section No. thirty-three (33), in township seventeen (17) north, of range two (2) west, Mount Diablo base and meridian, containing eighty (80)

acres; according to the United States surveys, together with all the privileges and appurtenances thereunto appertaining and belonging. And also reserving all claim of the United States to the same as mineral land.

To have and to hold the aforesaid premises to the said Henry N. Yates, his heirs and assigns, to his and their use and behoof forever.

In testimony whereof the said Central Pacific Railroad Company has caused these presents to be signed by its president and secretary and sealed with its corporate seal, and the said Mark Hopkins and Silas W. Sanderson, trustees, have subscribed their names and affixed their seals this fourteenth (14th) day of December, A. D. 1872.

[SEAL.] LELAND STANFORD,
Pres't C. P. R. R. Co.
E. H. MILLER, JR.,
Sec'y C. P. R. R. Co.

452 MARK HOPKINS, [SEAL.]
S. W. SANDERSON, [SEAL.]
Trustees.

STATE OF CALIFORNIA,
County of Sacramento, ss:

On this fourteenth (14th) day of December, A. D. one thousand eight hundred and seventy-two (1872), personally appeared before me, Charles J. Torbert, a notary public in and for said county, Leland Stanford, personally known to me to be the president, and E. H. Miller, jr., personally known to me to be the secretary, of the within-named Central Pacific Railroad Company, and personally known to me to be the persons described in and who executed the foregoing instrument as such officers of said company, who severally acknowledged to me that they executed the same freely and voluntarily as the free act and deed of said company, and for the uses and purposes therein mentioned. Also, at the same time and place, personally appeared before me Mark Hopkins and Silas W. Sanderson, personally known to me to be the persons and trustees described in and who executed the foregoing instrument as such trustees, who
453 severally acknowledged to me that they executed the same freely and voluntarily and for the uses and purposes therein mentioned.

In witness whereof I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

[L. S.] CHARLES J. TORBERT,
Notary Public in and for Sacramento County, State of California.

Rec'd of H. N. Yates and filed for record at his request at 52 min. past 1 p. m. Jan'y 2nd, 1873.

GILES G. CRANDALL, *Rec'r.*
By S. M. BISHOP, *Dep'l.*

Recorded in book "F" of deeds, pages 576 and 577, Colusa County records, January 9th, 1873.

GILES G. CRANDALL, *Recorder.*
By TERRANCE MASTERSON, *Deputy.*

STATE OF CALIFORNIA,
County of Colusa, ss:

I, J. B. De Jarnatt, county clerk and ex officio county recorder in and for the county of Colusa, State of California, do hereby certify that I have compared the foregoing copy of deed from Central Pacific
454 Railroad Company to Henry N. Yates, and of the endorsements thereupon, with the original records of the same remaining in this office, and that the same are correct transcripts therefrom and of the whole of said original records.

In witness whereof I have hereunto set my hand and affixed my official seal this 1st day of August, 1882.

[SEAL.] J. B. DE JARNATT,
County Clerk and ex officio County Recorder in and for Colusa County, Cal.,
By S. S. RUSSELL,
Deputy Recorder.

(Endorsed:) No. 520. Central Pacific Railroad Co. Mark Hopkins and Silas W. Sanderson to Henry N. Yates. Deed dated Dec. 14, 1872. U. S. circuit c't, Cal. U. S. v. C. P. R. R. Co. 1976. Respondent's Exhibit 17. Opened by stipulation of counsel and refiled August 13, 1885. L. S. B. Sawyer, clerk.

455 EXHIBIT 18.

No. 527.

To all to whom these presents shall come:

The Central Pacific Railroad Company, a corporation duly incorporated and organized under the laws of the State of California, and Mark Hopkins (successor to Charles Crocker) and Silas W. Sanderson, both of the city of Sacramento and State of California, trustees of all the lands of the said Central Pacific Railroad Company lying in the States of California and Nevada and the Territory of Utah which remained unsold on the first day of October, A. D. 1870, send greeting:

Whereas, on the first day of October, A. D. 1870, the said Central Pacific Railroad Company conveyed all its lands lying in the States of California and Nevada and the Territory of Utah then unsold, of which the lands hereinafter described were and are a part, to the said Charles Crocker and Silas W. Sanderson, to hold in trust as security for the payment of ten thousand bonds for the sum of one thousand dollars each, dated on the first day of October, A. D. 1870, and payable twenty years from date with interest at the rate of six per cent. per annum, made and issued by
456 the said Central Pacific Railroad Company;

And whereas said deed of trust among other matters provided that the said Central Pacific Railroad Company should have the sole and exclusive control and management of said lands, with full power to make sales of the same upon such terms and conditions as might from time to time be agreed upon between the said railroad company and the said trustees, and that when such sales had been made and the purchase money fully paid, the said company *company* and the said trustees should unite in a conveyance in fee simple of the lands so sold to the purchaser or pur-

chasers thereof, which conveyance should absolutely and forever release the lands so conveyed from any and all lien or incumbrance for or on account of said bonds or any other debt or obligation of the said railroad company;

And whereas, on the 14th day of August, 1871, Charles Crocker, one of the trustees, being about to depart from the State of California, to be absent for an indefinite period, did resign his trust under said con-
457 veyance of the first of October, 1870;

And whereas, on the 15th day of August, 1871, the said Silas W. Sanderson, the remaining trustee under said conveyance, did, pursuant to the terms of his trust, nominate Mark Hopkins, of the city of Sacramento, and State of California, to fill the vacancy caused by the resignation of said Charles Crocker;

And whereas, on the 21st day of August, 1871, the board of directors of the *the* said Central Pacific Railroad Company, pursuant to the terms of said trust, did ratify and approve said nomination, and did appoint said Mark Hopkins to fill said vacancy;

And whereas the said railroad company has sold the lands hereinafter described, pursuant to the foregoing conditions, to E. H. Miller, jr., for the sum of twenty-five thousand two hundred and ninety-seven $\frac{60}{100}$ ($25,297.60) dollars, which sum has been by him fully paid to the said Mark Hopkins and Silas W. Sanderson, trustees, as aforesaid:

Now, therefore, in consideration of the premises and the said sum of twenty-five thousand two hundred and ninety-seven $\frac{60}{100}$ ($25,297 $\frac{60}{100}$)
458 dollars, the receipt whereof is hereby acknowledged, the said Central Pacific Railroad Company, and the said Mark Hopkins and Silas W. Sanderson, trustee', as aforesaid, do grant, bargain, sell, and convey to the said E. H. Miller, jr., and to his heirs and assigns, the following described tract of land, situate, lying, and being in the county of Colusa, and State of California, to wit: Fractional sections seven (7), fifteen (15), seventeen (17), nineteen (19); the northeast quarter (NE. $\frac{1}{4}$), the southeast quarter of the northwest quarter (SE. $\frac{1}{4}$ of NW. $\frac{1}{4}$), and the southwest quarter (SW. $\frac{1}{4}$) of section twenty-seven (27); section twenty-nine (29); fractional section thirty-one (31); the north half of the northwest quarter (N. $\frac{1}{2}$ of NW. $\frac{1}{4}$), the southwest quarter of the northwest quarter (SW. $\frac{1}{4}$ of NW. $\frac{1}{4}$), the northwest quarter of the southwest quarter (NW. $\frac{1}{4}$ of SW. $\frac{1}{4}$), the south half of the southwest quarter (S. $\frac{1}{2}$ of SW. $\frac{1}{4}$) of section thirty-three (33); lots one and two of the southwest quarter (lots 1 and 2 of SW. $\frac{1}{4}$) and lot three of the southeast quarter (lot 3 of SE. $\frac{1}{4}$) of section thirty-five (35); all in township seventeen (17) north, of range two (2) west; also the south half (S. $\frac{1}{2}$) of section (5); the southeast quarter (SE. $\frac{1}{4}$) and the fractional west half (fract. W. $\frac{1}{2}$) of section (7); the
459 whole of section thirteen (13); the south half (S. $\frac{1}{2}$) of section 15 and the northwest quarter (NW. $\frac{1}{4}$) of section No. seventeen (17), in township seventeen (17) north, of range three (3) west, Mount Diablo base and meridian, containing six thousand three hundred and twenty-four (6,324 $\frac{40}{100}$) acres, according to the United States surveys, together with all the privileges and appurtenances thereunto appertaining and belonging. Excepting and reserving, however, for railroad purposes, a strip of land four hundred feet wide, lying equally on each side of the railroad of said company, or any branch railroad now or hereafter constructed on

said lands, and the right to use all water needed for the operating and repairing of said railroad which rises on said land, and the right of way to conduct water rising on other lands across said land in pipes or aqueducts for said purposes; and subject also to the reservation and condition that the said purchaser, his heirs and assigns, shall erect and maintain good and sufficient fences on both sides of said strip or strips of land; reserv-
460 ing, however, all claim of the United States to the same as mineral land.

To have and to hold the aforesaid premises to the said E. H. Miller, jr., his heirs and assigns, to his and their use and behoof forever.

In testimony whereof the said Central Pacific Railroad Company has caused these presents to be signed by its president and secretary, and sealed with its corporate seal; and the said Mark Hopkins and Silas W. Sanderson, trustees, have subscribed their names and affixed their seals this fourteenth (14) day of December, A. D. 1872.

LELAND STANFORD,
[L. S.] *Pres't C. P. R. R. Co.*
E. H. MILLER, JR.,
Sec'y C. P. R. R. Co.

MARK HOPKINS, [SEAL.]
L. W. SANDERSON, [SEAL.]
Trustees.

STATE OF CALIFORNIA,
County of Sacramento, ss:

On this fourteenth (14) day of December, A. D. one thousand eight hundred and seventy-two (1872), personally appeared before me,
461 Charles J. Torbert, a notary public in and for said county, Leland Stanford, personally known to me to be the president, and E. H. Miller, jr., personally known to me to be the secretary of the within-named Central Pacific Railroad Company, and personally known to me to be the persons described in and who executed the foregoing instrument as such officers of said company, who severally acknowledged to me that they executed the same freely and voluntarily, as the free act and deed of said company, and for the uses and purposes therein mentioned. Also at the same time and place personally appeared before me Mark Hopkins and Silas W. Sanderson, personally known to me to be the persons and trustees described in and who executed the foregoing instrument as such trustees, who severally acknowledged to me that they executed the same freely and voluntarily, and for the uses and purposes therein mentioned.

In witness whereof I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

[L. S.] CHARLES J. TORBERT,
Notary Public in and for Sacramento County, State of California.

462 Rec'd of W. F. Goad and filed for record at his request Jan. 2d, 1873, at 15 min. past 9 a. m.

GILES G. CRANDALL, *Rec'r.*

Recorded in book F of deeds, pages 573, 574, and 575, Colusa County records, January 9th, 1873.

GILES G. CRANDALL, *Rec'r.*
By TERRANCE MASTERSON, *Deputy.*

STATE OF CALIFORNIA,
County of Colusa, ss:

I, J. B. De Jarnatt, county clerk and ex officio county recorder in and for the county of Colusa, State of California, do hereby certify that I have compared the foregoing copy of deed from Central Pacific Railroad Company to E. H. Miller, jr., and of the endorsements thereupon, with the original records of the same remaining in this office, and that the same are correct transcripts therefrom and of the whole of said original records.

In witness whereof I have hereunto set my hand and affixed my official seal this —— day of ———, 1882.

J. B. DE JARNATT,
County Clerk and ex officio County Recorder in and for Colusa County, Cal.
By S. S. RUSSELL,
Deputy Recorder.

463 (Endorsed:) No. 527. Central Pacific Railroad Co. Mark Hopkins and Silas W. Sanderson to E. H. Miller, jr., deed, dated Dec. 14, 1872. U. S. circuit c't, Cal. U. S. v. C. P. R. R. Co. 1976. Respondent's Exhibit 18. Opened by stipulation of counsel and refiled August 13, 1885. L. S. B. Sawyer, clerk.

464 EXHIBIT 19.

No. 25.

Know all men by these presents, that the Central Pacific Railroad Company (successors to "The Central Pacific Railroad Company of California," "The Western Pacific Railroad Company," and the "California and Oregon Railroad Company," consolidated), in consideration of the sum of two hundred ($200) United States currency dollars, to it paid by W. R. Merrill, of Colusa County, California, the receipt whereof is hereby acknowledged, hereby gives, grants, bargains, sells, and conveys to the said W. R. Merrill, his heirs and assigns, the following-described tract of land situate in Colusa County, California, to wit:

The southeast quarter (SE. ¼) of section No. twenty-seven (27), in township No. seventeen (17) north, of range No. two (2), Mount Diablo base and meridian, containing one hundred and sixty (160) acres, according to the United States surveys, together with all the privileges and appurtenances thereunto appertaining and belonging; and also reserving all claim of the United States to the same as mineral land.

To have and to hold the aforesaid premises to the said W. R. Merrill, his heirs and assigns, to his and their use and behoof forever.

In testimony whereof the said Central Pacific Railroad Company has caused these presents to be signed by its president and secretary,
465 and sealed with its corporate seal, this thirteenth (13″) day of March, A. D. 1873.

[L. S.]

LELAND STANFORD,
Pres't C. P. R. R. Co.
E. H. MILLER, JR.,
Sec'y C. P. R. R. Co.

STATE OF CALIFORNIA,
County of Sacramento, ss:

On this thirteenth (13th) day of March, in the year one thousand eight hundred and seventy-three (1873), before me, Charles J. Torbert, a notary public in and for said city and county of Sacramento, duly commissioned and qualified, personally appeared Leland Stanford, known to me to be the president, and E. H. Miller, jr., known to me to be the secretary, of the corporation that executed the within instrument, and acknowledged to me that such corporation executed the same.

In testimony whereof I have hereunto set my hand and affixed my official seal this thirteenth (13″) day of March, A. D. 1873.

[L. S.] CHARLES J. TORBERT,
Notary Public in and for the City and County of Sacramento, State of California.

Rec'd of W. R. Merrill and filed for record, at his request, March 25th, 1873, at 55 min. past 11 a. m.

466 GILES G. CRANDALL, *Recorder.*

Recorded in book " F " deeds, page 681. Colusa County. Recorded March 26th, 1873.

GILES G. CRANDALL, *Recorder,*
By J. B. DE JARNATT, *Deputy.*

STATE OF CALIFORNIA,
County of Colusa, ss:

I, J. B. De Jarnatt, county clerk and ex-officio county recorder in and for the county of Colusa, State of California, do hereby certify that I have compared the foregoing copy of deed Central Pacific Railroad Company to W. R. Merrill, and of the endorsements thereupon, with the original records of the same remaining in this office, and that the same are correct transcripts therefrom, and of the whole of said original records.

In witness whereof I have hereunto set my hand and affixed my official seal this 31st day of July, 1882.

[SEAL.] J. B. DE JARNATT,
County Clerk and ex officio County Recorder in and for Colusa County, Cal.,
By S. S. RUSSELL,
Deputy Recorder.

(Endorsed:) No. 25. Central Pacific R. R. Co. To W. R. Merrill. Deed dated Mch. 13, 1873. U. S. Circuit Ct., Cal. U. S. v. C. P. R. R. Co. 1976. Respondent's Exhibit 19. Opened by stipulation of counsel and refiled August 13, 1885. L. S. B. Sawyer, clerk

467 EXHIBIT 20.

No. 30.

Know all men by these presents, that the Central Pacific Railroad Company, successor to "The Central Pacific Railroad Company of California," "The Western Pacific Railroad Company," and the "California

and Oregon Railroad Company," consolidated), in consideration of the sum of one hundred ($100) U. S. currency dollars, to it paid by W. R. Merrill, of Colusa County, California, the receipt whereof is hereby acknowledged, hereby gives, grants, bargains, sells, and conveys to the said W. R. Merrill, his heirs and assigns, the following-described tract of land situate in Colusa County, California, to wit: The north half of northwest quarter (N. ½ of NW. ¼) of section No. thirty-five (35), in township No. seventeen (17) of range No. two (2), Mount Diablo base and meridian, containing eighty (80) acres, according to the United States surveys, together with all the privileges and appurtenances thereunto appertaining and belonging, reserving all claim of the United States to the same as mineral land.

To have and to hold the aforesaid premises to the said W. R. Merrill, his heirs and assigns, to his and their use and behoof forever.

In testimony whereof the said Central Pacific Railroad Company has caused these presents to be signed by its president and secretary and sealed with its corporate seal this fifth (5th) day of February, A. D. 187 .

468 [SEAL.]

LELAND STANFORD,
Pres't C. P. R. R. Co.
E. H. MILLER, Jr.,
Sec'y C. P. R. R. Co.

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

On this fifth (5th) day of February, in the year one thousand eight hundred and seventy-six (1876), before me, Charles J. Torbert, a notary public in and for said city and county of San Francisco, duly commissioned and qualified, personally appeared Leland Stanford, known to me to be the president, and E. H. Miller, jr., known to me to be the secretary, of the corporation that executed the within instrument, and acknowledged to me that such corporation executed the same.

In testimony whereof I have hereunto set my hand and affixed my official seal this fifth (5th) day of February, 1876, A. D. 187 .

[SEAL.]

CHARLES J. TORBERT,
Notary Public in and for the City and County of San Francisco, State of California.

Rect. of W. R. Merrill and filed for record at his request at 40 minutes past 10 a. m., February 15, 1876.

S. M. BISHOP, *Recorder.*

469 Recorded in Book "J" of deeds pages 75 & 76. Colusa County records, February 15th, 1876.

S. M. BISHOP,
Recorder,
By J. H. POPE,
Deputy.

STATE OF CALIFORNIA,
County of Colusa, ss:

I, J. B. De Jarnatt, county clerk and ex-officio county recorder in and for the county of Colusa, State of California, do hereby certify that I have

compared the foregoing copy of deed from Central Pacific Railroad Company to W. R. Merrill and of the endorsements thereupon, with the original records of the same remaining in this office, and that the same are correct transcripts therefrom and of the whole of said original records.

In witness whereof I have hereunto set my hand and affixed my official seal, this 1st day of August, 1882.

[SEAL.] J. B. DE JARNATT,
County Clerk and ex officio County Recorder
in and for Colusa County, Cal.,
By S. S. RUSSELL,
Deputy Recorder.

(Endorsed:) No. 30. Central Pacific R. R. Co. to W. R. Merrill. Deed dated Feb'y 5, 1876. U. S. circuit ct., Cal. U. S. v. C. P. R. R. Co. 1976. Respondent's Exhibit 20. Opened by stipulation of counsel and refiled August 13, 1885. L. S. B. Sawyer, clerk.

470 EXHIBIT 21.

No. 485.

To all to whom these presents shall come, The Central Pacific Railroad Company, a corporation duly incorporated and organized under the laws of the State of California, and Mark Hopkins (successor to Charles Crocker) and Silas W. Sanderson, both of the city and county of San Francisco, and State of California, trustees of all the lands of the said Central Pacific Railroad Company, lying in the States of California and Nevada, and the Territory of Utah, which remained unsold on the first day of October, A. D. 1870, send greeting:

Whereas, on the first day of October, A. D. 1870, the said Central Pacific Railroad Company conveyed all its lands lying in the States of California and Nevada and the Territory of Utah, then unsold, of which the lands hereinafter described were and are a part, to the said Charles Crocker and Silas W. Sanderson, to hold in trust as security for the payment of ten thousand bonds, for the sum of one thousand dollars each, dated on the first day of October, A. D. 1870, and payable twenty years from date, with interest at the rate of six per cent. per annum, made and issued by the said Central Pacific Railroad Company;

471 And whereas said deed of trust, among other matters, provided that the said Central Pacific Railroad Company should have the sole and exclusive control and management of said lands, with full power to make sales of the same upon such terms and conditions as might, from time to time, be agreed upon between the said railroad company and the said trustees; and that when such sales had been made, and the purchase money fully paid, the said company and the said trustees should unite in a conveyance in fee simple of the lands so sold to the purchaser or purchasers thereof, which conveyance should absolutely and forever release the lands so conveyed from any and all lien or incumbrance, for or on account of said bonds, or any other debt or obligation of the said railroad company;

And whereas, on the 14th day of August, 1871, Charles Crocker, one of the trustees, being about to depart from the State of California, to be ab-

sent for an indefinite period, did resign his trust, under said conveyance of the first of October, 1870; and whereas, on the 15th day of August,
472 1871, the said Silas W. Sanderson, the remaining trustee under said conveyance, did, pursuant to the terms of his trust, nominate Mark Hopkins, of the city of Sacramento and State of California, to fill the vacancy caused by the resignation of said Charles Crocker; and whereas, on the 21st day of August, 1871, the board of directors of the said Central Pacific Railroad Company, pursuant to the terms of said trust, did ratify and approve said nomination, and did appoint said Mark Hopkins to fill said vacancy;

And whereas the said railroad company has sold the lands hereinafter described, pursuant to the foregoing conditions, to George M. Sutton and Joseph A. Sutton, for the sum of twenty-eight hundred and eighty ($2,800) dollars, which sum has been by them fully paid to the said Mark Hopkins and Silas W. Sanderson, trustees as aforesaid:

Now, therefore, in consideration of the premises and the sum of twenty-eight hundred and eighty ($2,800) dollars, the receipt whereof is hereby acknowledged, the said Central Pacific Railroad Company, and the said Mark Hopkins and Silas W. Sanderson, trustees as aforesaid, do
473 grant, bargain, sell, and convey to the said George M. Sutton and Joseph A. Sutton, and their heirs and assigns, the following described tract of land, situate, lying, and being in the county of Colusa and State of California, to wit: The north half (N. ½) of section No. fifteen (15), in township seventeen (17) north, of range three (3) west, Mount Diablo base and meridian, containing three hundred and twenty (320) acres, according to the United States surveys, together with all the privileges and appurtenances thereunto appertaining and belonging; excepting and reserving, however, for railroad purposes, a strip of land four hundred feet wide, lying equally on each side of the track of the railroad of said company, or any branch railroad now or hereafter constructed on said lands, and the right to use all water needed for the operating and repairing of said railroad which rises on said land, and the right of way to conduct water rising on other lands across said land in pipes or aqueducts, for said purposes; and subject also to the reservation and condition that the said purchaser', their heirs and assigns, shall erect and maintain good and sufficient fences on both sides of said strip or strips of land,
474 reserving, however, all claim of the United States to the same as mineral land; to have and to hold the aforesaid premises to the said George M. Sutton and Joseph A. Sutton, their heirs and assigns, to their and their use and behoof forever.

In testimony whereof the said Central Pacific Railroad Company has caused these presents to be signed by its president and secretary and sealed with its corporate seal, and the said Mark Hopkins and Silas W. Sanderson, trustees, have subscribed their names and affixed their seals, this first (1st) day of November, A. D. 1877.

[SEAL.]

LELAND STANFORD,
Pres't C. P. R. R. Co.
E. H. MILLER, JR.,
Sec'y C. P. R. R. Co.
MARK HOPKINS, [SEAL.]
S. W. SANDERSON, [SEAL.]
Trustees.

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

On this first (1st) day of November, in the year one thousand
475 eight hundred and seventy-seven (1877), before me, Charles J. Torbert, a notary public in and for said city and county of San Francisco, duly commissioned and qualified, personally appeared Leland Stanford, known to me to be the president, and E. H. Miller, jr., known to me to be the secretary of the corporation that executed the within instrument, and acknowledged to me that such corporation executed the same. Also, at the same time and place, personally appeared before me Mark Hopkins and Silas W. Sanderson, known to me to be the persons and trustees described in and whose names are subscribed to the within instrument, and acknowledged to me that they executed the same as said trustees.

In witness whereof I have hereunto set my hand and affixed my official seal this (1st) day of November, A. D. 1874.

[SEAL.] CHARLES J. TORBERT,
Notary Public in and for the City and County of San Francisco, State of California.

Rec'd of and filed for record at request of G. M. Sutton, Nov. 7, 1877, at 53 min. past 2 p. m.

S. M. BISHOP,
Recorder,
By C. A. NEWTON,
Deputy.

476 Recorded in book "L" of deeds, 466, 467, 468, & 469, Colusa County Records, Nov. 22, '77.

S. M. BISHOP, *Recorder,*
By W. H. MILES, *Deputy.*

STATE OF CALIFORNIA,
County of Colusa, ss:

I, J. B. De Jarnatt, county clerk and ex officio county recorder in and for the county of Colusa, State of California, do hereby certify that I have compared the foregoing copy of deed from Central Pacific Railroad Company to George M. Sutton and Joseph A. Sutton, and of the endorsements thereupon, with the original records of the same remaining in this office, and that the same are correct transcripts therefrom, and of the whole of said original records.

In witness whereof, I have hereunto set my hand and affixed my official seal this 1st day of August, 1882.

[SEAL.] J. B. DE JARNATT,
County Clerk and ex officio County Recorder in and for Colusa County, Cal.,
By S. S. RUSSELL,
Deputy Recorder.

477 (Endorsed:) No. 485, Central Pacific Railroad Co. Mark Hopkins and Silas W. Sanderson to George M. Sutton and Joseph A. Sutton. Deed, dated Nov. 1, 1877. U. S. circuit ct., Cal. U. S. v. C. P. R. R. Co. Respondent's Exhibit 21, opened by stipulation of counsel and refiled August 13, 1885. L. S. B. Sawyer, clerk.

478 EXHIBIT 22.

No. 516.

To all to whom these presents shall come:

The Central Pacific Railroad Company, a corporation duly incorporated and organized under the laws of the State of California, and Mark Hopkins (successor to Charles Crocker) and Silas W. Sanderson, both of the city and county of San Francisco, and State of California, trustees of all the lands of the said Central Pacific Railroad Company, lying in the States of California and Nevada and the Territory of Utah, which remained unsold on the first day of October, A. D. 1870, send greeting:

Whereas, on the first day of October, A. D., 1870, the said Central Pacific Railroad Company conveyed all its lands lying in the States of California and Nevada, and the Territory of Utah, then unsold, of which the lands hereinafter described were, and are, a part, to the said Charles Crocker and Silas W. Sanderson, to hold in trust as security for the payment of ten thousand bonds, for the sum of one thousand dollars each, dated on the first day of October, A. D. 1870, and payable twenty years
479 from date, with interest at the rate of six per cent. per annum, made and issued by the said Central Pacific Railroad Company;

And whereas said deed of trust, among other matters, provided that the said Central Pacific Railroad Company should have the sole and exclusive control and management of said lands, with full power to make sales of the same upon such terms and conditions as might, from time to time, be agreed upon between the said railroad company and the said trustees, and that when such sales had been made, and the purchase money fully paid, the said company and the said trustees should unite in a conveyance in fee-simple of the lands so sold to the purchaser or purchasers thereof, which conveyance should absolutely and forever release the lands so conveyed from any and all lien or incumbrance, for or on account of said bonds, or any other debt or obligation of the said railroad company;

And whereas, on the 14th day of August, 1871, Charles Crocker, one of the trustees, being about to depart from the State of California, to be absent for an indefinite period, did resign his trust under said conveyance
480 of the first of October, 1870; and whereas, on the 15th day of August, 1871, the said Silas W. Sanderson, the remaining trustee under said conveyance, did, pursuant to the terms of his trust, nominate Mark Hopkins, of the city of Sacramento, and State of California, to fill the vacancy caused by the resignation of said Charles Crocker; and whereas, on the 21st day of August, 1871, the board of directors of the said Central Pacific Railroad Company, pursuant to the terms of said trust, did ratify and approve said nomination, and did appoint said Mark Hopkins to fill said vacancy;

And whereas the said railroad company has sold the lands hereinafter described pursuant to the foregoing conditions to J. M. Clark for the sum of fourteen hundred and forty ($1,440) dollars, which sum has been by him fully paid to the said Mark Hopkins and Silas W. Sanderson, trustees as aforesaid:

Now, therefore, in consideration of the premises and the said sum of fourteen hundred and forty ($1,440) dollars, the receipt whereof is hereby

acknowledged, the said Central Pacific Railroad Company and the said Mark Hopkins and Silas W. Sanderson, trustees as aforesaid, do
481 grant, bargain, sell, and convey to the said J. M. Clark, and his heirs and assigns, the following-described tract of land, situate, lying, and being in the county of Colusa and State of California, to wit:

The southwest quarter (SW. ¼) of section No. seventeen (17), in township seventeen (17) north, of range three (3) west, Mount Diablo base and meridian, containing one hundred and sixty (160) acres, according to the United States surveys, together with all the privileges and appurtenances thereunto appertaining and belonging; reserving, however, all claim of the United States to the same as mineral land.

To have and to hold the aforesaid premises to the said J. M. Clark, his heirs and assigns, to his and their use and behoof forever.

In testimony whereof the said Central Pacific Railroad Company has caused these presents to be signed by its president and secretary and sealed with its corporate seal, and the said Mark Hopkins and Silas W. Sanderson, trustees, have subscribed their names and affixed their seals this twenty-first (21st) day of December, A. D. 187—.

482 LELAND STANFORD,
Pres't C. P. R. R. Co.

[SEAL.] E. H. MILLER, JR.,
Sec'y C. P. R. R. Co.

MARK HOPKINS, [SEAL.]
S. W. SANDERSON, [SEAL.]
Trustees.

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

On this twenty-first (21st) day of December, in the year one thousand eight hundred and seventy-seven (1877), before me, Charles J. Torbert, a notary public in and for said city and county of San Francisco, duly commissioned and qualified, personally appeared Leland Stanford, known to me to be the president, and E. H. Miller, jr., known to me to be the secretary, of the corporation that executed the within instrument and acknowledged to me that such corporation executed the same; also at the same time and place personally appeared before me Mark Hopkins and Silas W. Sanderson, known to me to be the persons and trustees described in and whose names are subscribed to the within instrument and acknowledged to me that they executed the same as said trustees.

483 In witness whereof I have hereunto set my hand and affixed my official seal this twenty-first (21st) day of December, A. D. 1877.

[SEAL.] CHARLES S. TORBERT,
Notary Public in and for the City and County of San Francisco, State of California.

Rec'd of and filed for record at request of J. M. Clark, Dec. 29th, 1877, at 55 min. past 11 a. m.

S. M. BISHOP,
Recorder,
By W. H. MILES,
Deputy.

Recorded in book "M" of deeds, pages 28, 29, 30, & 31, Colusa County records, Jan'y 11th, 1878.

S. M. BISHOP,
Recorder,
By C. A. NEWTON,
Deputy.

STATE OF CALIFORNIA,
County of Colusa, ss:

I, J. B. De Jarnatt, county clerk and ex officio county recorder in and for the county of Colusa, State of California, do hereby certify that I have compared the foregoing copy of deed from Central Pacific Railroad Company to J. M. Clark, and of the endorsements thereupon, with the original records of the same remaining in this office, and that the
484 same are correct transcripts therefrom, and of the whole of said original records.

In witness whereof I have hereunto set my hand and affixed my official seal this 1st day of August, 1882.

[SEAL.] J. B. DE JARNATT,
County Clerk and ex officio County Recorder in and for Colusa County, Cal.,
By S. S. RUSSELL,
Deputy Recorder.

(Endorsed:) No. 516. Central Pacific Railroad Co. Mark Hopkins and Silas W. Sanderson to J. M. Clark. Deed, dated Dec. 21, 1877. U. S. circuit ct., Cal. U. S. v. C. P. R. R. Co. Respondent's Exhibit 22. Opened by stipulation of counsel, and refiled August 13, 1885. L. S. B. Sawyer, clerk.)

485 *Order allowing appeal.*

At a stated term, to wit, the February term, A. D. 1886, of the circuit court of the United States of America of the ninth judicial district in and for the northern district of California, held at the court-room, in the city and county of San Francisco, on Monday, the 15th day of March, in the year of our Lord one thousand eight hundred and eighty-six.

Present, the honorable Lorenzo Sawyer, circuit judge.

THE UNITED STATES OF AMERICA
v.
THE CENTRAL PACIFIC RAILROAD COMPANY. } No. 1976.

On motion of S. G. Hilborn, esq., U. S. attorney, solicitor for the complainant, it is ordered that an appeal from the decree filed and entered herein by said circuit court, on the 1st day of February, A. D. 1886, being a day in the February, A. D. 1886, term of said circuit court, to the Supreme Court of the United States be, and the same hereby is, allowed, and that a certified transcript of the pleadings, testimony, exhibits,
486 stipulations, and procedings be forthwith transmitted to the Supreme Court of the United States.

487 *Stipulation that a certain original exhibit be sent up with transcript.*

In the circuit court of the United States, ninth judicial circuit, northern district of California.

THE UNITED STATES OF AMERICA, complainant,
vs.
THE CENTRAL PACIFIC RAILROAD COMPANY, respondent. } No. 1976.

It is hereby stipulated and agreed by and between the counsel for the respective parties hereto, that the original "Complainant's Exhibit H" (being transcript of record on appeal to U. S. Supreme Court in cause entitled Manuel Diaz, appellant, vs. The United States) may be withdrawn from the files of this court, for the purpose of being transmitted to the U. S. Supreme Court, with the transcript on appeal herein, the same to be returned to the files of this court upon the determination by said U. S. Supreme Court of the appeal in the above-entitled cause.

San Francisco, January 25, 1887.

JOHN T. CAREY,
U. S. Att'y N. D. Cal., Solicitor for Complainant.

488 P. D. WIGGINTON,
Solicitor for Respondent.

So ordered.
(Signed) LORENZO SAWYER,
U. S. Circuit Judge.

(Endorsed:) Stipulation consenting to withdrawal of original Compl't's Exhibit "H," & to transmit same to U. S. Supreme Court. Filed Feb. 2, 1887. L. S. B. Sawyer, clerk.

489 In the circuit court of the United States for the northern district of California.

THE UNITED STATES
vs.
THE CENTRAL PACIFIC RAILROAD COMPANY. } No. 1976.

It is hereby stipulated and agreed by and between the counsel for the respective parties hereto that the original Complain't's Exhibit PP, RR, ZZ, and Respondent's Exhibits 1 and 5, may be withdrawn from the files of this court for the purpose of being transmitted to the U. S. Supreme Court, with the transcript on appeal herein, the same to be returned to the files of this court upon the determination by said U. S. Supreme Court of said appeal.

San Francisco, May 19, 1887.

JOHN T. CAREY,
United States Attorney and Solicitor for Complainant.
P. D. WIGGENTON,
Solicitor for Respondent.

So ordered.
(Signed) LORENZO SAWYER,
U. S. Circuit Judge.

490 (Endorsed:) Filed May 24, 1887. L. S. B. Sawyer, clerk.

491 In the circuit court of the United States of America of the ninth judicial circuit in and for the northern district of California.

THE UNITED STATES OF AMERICA
vs.
THE CENTRAL PACIFIC RAILROAD COMPANY. } No. 1976.

I, L. S. B. Sawyer, clerk of the circuit court of the United States of America of the ninth judicial circuit, in and for the northern district of California, do hereby certify that the foregoing four hundred ninety written pages, numbered from 1 to 490, inclusive, are a full, true, and correct copy of the record and all the proceedings in the above and therein entitled cause, exclusive of the following-named exhibits; original Complainant's Exhibits H, PP, RR, ZZ, and original Respondent's Exhibits 1 and 5, and that the same, together with said exhibits, constitute the transcripts on appeal to the Supreme Court of the United States in said cause.

492 Attest my hand and the seal of said circuit court this twenty-fifth day of May, A. D. 1887.

[SEAL.] L. S. B. SAWYER,
Clerk.

493 UNITED STATES OF AMERICA, *ss:*

To the Central Pacific Railroad Company greeting:

You are hereby cited and admonished to be and appear at the Supreme Court of the United States, to be held at the city of Washington, in the District of Columbia, on the 11th day of October, A. D. 1886, pursuant to an order allowing an appeal from the final decree of the circuit court of the United States in and for the district of California, wherein the United States of America are appellants and you are appellee, to show cause, if any there be, why the said decree in the said cause mentioned should not be corrected and speedy justice should not be done to the parties in that behalf.

Witness the honorable Ogden Hoffman, U. S. district judge for California, holding said circuit court of the United States for the district of California, this 11th day of June, A. D. 1886, and of the Independence of the United States the one hundred and tenth.

OGDEN HOFFMAN,
U. S. District Judge for California, holding Circuit Court of the United States for the District of California.

494 *Marshal's return.*

I have served this writ personally on P. D. Wigginton this 22nd day of June, 1886.

J. C. FRANKS,
U. S. Marshal,
By GEO. P. CRAIG,
Deputy U. S. Marshal.

(Indorsed:) No. 1976. In the Supreme Court of the United States. The United States of America, appellants, v. The Central Pacific Railroad Company, appellee. Citation.

Service of a copy of the within citation is hereby acknowledged this 22nd day of June, 1886.

P. D. WIGGENTON,
Solicitor for Respondent and Appellee.

Filed June 24, 1886. L. S. B. Sawyer, clerk U. S. circuit court dist. of Cal., by J. D. Monekton, deputy clerk.

(Indorsement on cover:) No. 338. The United States, appellant, vs. The Central Pacific Railroad Company. California. C. C. U. S. Filed June 16, 1887.